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सं० 13]

नई दिल्ली, शनिवार, मार्च 28, 1970/चैत्र 7, 1892

No. 13]

NEW DELHI, SATURDAY, MARCH 28, 1970/ CHAITRA 7, 1892

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह भूगल संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

भाग II--खण्ड 3--उपखण्ड (ii)

PART II—Section 3—Sub-section (ii)

(रक्षा मंत्रालय को छोड़कर) भारत सरकार के मंत्रालयों और (संघ क्षेत्र प्रशासन को छोड़कर) क्षेत्रीय प्राधिकरणों द्वारा जारी किये गये विधिक आदेश और अधिसूचनाएं।

Statutory orders and notifications issued by the Ministries of the Government of India (other than the Ministry of Defence) and by Central Authorities (other than the Administration of Union Territories).

ELECTION COMMISSION OF INDIA

New Delhi, the 3rd March 1970

S.O. 1109.—In exercise of the powers conferred by sub-section (1) of section 22 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission hereby directs that the following amendments shall be made in its notification No. 434/PB/68, dated the 11th December, 1968, namely:—

In column 3 of the Table appended to the said notification,—

- (i) against item '2. Ferozepur', for the existing entry numbered 3, the entry "3. Public Grievances Officer, Ferozepur",
- (ii) against item '6. Hoshiarpur', for the existing entry numbered 2, the entry "2. District Transport Officer, Hoshiarpur",
- (iii) against item '8. Phillaur', for the existing entry numbered 6, the entry "6. District Transport Officer, Hoshiarpur",
- (iv) against item '12. Sangrur', for the existing entry numbered 2, the entry "2. District Transport Officer, Sangrur", shall be substituted; and
- (v) against item '7. Jullundur' after the existing entry numbered 5, the entry "6. Sub-Divisional Officer, Sultanpur", shall be inserted.

[No. 434/PB/69.]

भारत निर्वाचन आयोग

नई दिल्ली, 3 मार्च 1970

एस० ओ० 1109—लोक प्रतिनिधित्व अधिनियम 1951 (1951 का 43) की धारा 22 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए निर्वाचन आयोग एतद्वारा निदेश देता है कि अपनी अधिसूचना संख्या 434/पंजाब/68 तारीख 11 दिसम्बर, 1968 में निम्नलिखित संशोधन किए जायेंगे—अर्थात् ;

उक्त अधिसूचना से संलग्न सारणी के स्तम्भ 3 में,

- (i) मद “2. फिरोजपुर” के सामने विद्यमान प्रविष्टि संख्या 3 के लिए, प्रविष्टि “3. लोक शिकायत आफिसर, फिरोजपुर”
- (ii) मद “6 होशियारपुर” के सामने विद्यमान प्रविष्टि संख्या 2 के लिए प्रविष्टि “2. जिला परिवहन आफिसर, होशियारपुर”
- (iii) मद “8. फिल्लौर” के सामने विद्यमान प्रविष्टि संख्या 6 के लिए प्रविष्टि “6. जिला परिवहन आफिसर, होशियारपुर”
- (iv) मद “12. संगरूर” के सामने विद्यमान प्रविष्टि संख्या 2 के लिए प्रविष्टि “2. जिला परिवहन आफिसर, संगरूर”

प्रतिस्थापित की जाएंगी; तथा

- (v) मद “7. जालन्धर” के सामने विद्यमान प्रविष्टि संख्या 5 के पश्चात् प्रविष्टि “6. उपखण्ड आफिसर, सुल्तानपुर” अन्तःस्थापित की जाएगी।

[सं० 434/पंजाब/69]

ORDER

New Delhi, the 13th February 1970

S.O. 1110.—Whereas the Election Commission is satisfied that Shri Charu Chandra Mandal, Village-Matharanga College, P.O. Matharanga, District Cooch Behar, a contesting candidate for the mid-term election held in February, 1969, to the West Bengal Legislative Assembly from 5-Dinhata constituency, has failed to lodge an account of his election expenses as required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas the said candidate, even after due notices, has not given any reason or explanation for the failure and the Election Commission is satisfied that he has not good reason or justification for the failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Charu Chandra Mandal to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this order.

[No. WB LA/5/69(4).]

By Order,
A. N. SEN, Secy.

आदेश

नई दिल्ली, 13 फरवरी, 1970

एस० ओ० 1110.—प्रतः निर्वाचन आयोग का समाधान हो गया है कि फरवरी, 1969 में हुए पश्चिमी बंगाल विधान सभा के लिए मध्यावधि निर्वाचन के लिए

5-दिन्हाटा सभा निर्वाचन-क्षेत्र से चुनाव लड़ने वाले उम्मीदवार श्री चारू चन्द्र मण्डल, ग्राम मठरंग कालेज, डाकघर-मठरंग, जिला कूच बिहार, लोक प्रतिनिधित्व अधिनियम, 1951 तथा तदधीन बनाए गए नियमों द्वारा अपेक्षित अपने निर्वाचन व्ययों का कोई भी लेखा दाखिल करने में असफल रहे हैं;

और, यतः उक्त उम्मीदवार उसे सम्यक सूचना दिए जाने पर भी लेखा दाखिल करने में असफल रहा है और उक्त अपनी इस अवसृजता के लिए कोई कारण अथवा स्पष्टीकरण नहीं दिया है; तथा निर्वाचन प्रायोग का यह समाधान हो गया है कि उसके पास इस असफलता के लिए कोई पर्याप्त कारण या न्यायोचित्य नहीं है;

अतः अब, उक्त अधिनियम की धारा 10-क के अनुसरण में निर्वाचन आयोग एतद्वारा उक्त श्री चारू चन्द्र मण्डल को संसद के किसी भी सदन के या किसी राज्य की विधान सभा अथवा विधान परिषद के सदस्य चुने जाने और होने के लिए, इस आदेश की तारीख से तीन वर्ष की कालावधि के लिए निरहित घोषित करता है।

[सं० प० बं०-वि० सं०/5/69(4)]

ए० एन० सेन, सचिव,

भारत निर्वाचन आयोग।

New Delhi, the 11th March 1970

S.O. 1111.—In exercise of the powers conferred by sub-section (1) of section 22 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission hereby directs that the following amendments shall be made in its notification No. 434/MT/68, dated the 3rd May, 1968, namely:—

In column 3 of the Table appended to the said notification—

- (i) against Serial Nos. 15-Jalgaon and 16-Buldana, for the existing entries at 3 and 2 respectively the entry "Special Land Acquisition Officer, Jalgaon" shall be substituted; and
- (ii) against Serial No. 16-Buldana, the entry "4. Leave Reserve Deputy Collector, Buldana" shall be deleted and the entry 5 shall be re-numbered as 4.

[No. 434/MT/68.]

S.O. 1112.—In exercise of the powers conferred by sub-section (1) of section 22 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission hereby appoints, in addition to the officers appointed by its notification No. 434/MT/68, dated the 3rd May, 1968, as subsequently amended, the following officers to assist the Returning Officer for Buldana Parliamentary Constituency in connection with the bye-election to the House of the People from the said constituency:

- (i) Tahsildar, Yawal,
- (ii) Tahsildar, Raver,
- (iii) Tahsildar, Edlabad,
- (iv) Tahsildar, Bhusawal,
- (v) Tahsildar Malkapur, and
- (vi) Tahsildar, Chikhli.

[No. 434/MT/68(A).]

By Order,

K. S. RAJAGOPALAN, Secy.

MINISTRY OF FINANCE

(Department of Expenditure)

New Delhi, the 9th March 1970

S.O. 1113.—In exercise of the powers conferred by the proviso to article 309 and clause (3) of article 148 of the Constitution, and of all other powers enabling

him in this behalf, the President, after consultation with the Comptroller and Auditor General of India in respect of persons serving in the Indian Audit and Accounts Department, hereby makes the following rules further to amend the General Provident Fund (Central Services) Rules, 1960, namely:—

1. (1) These rules may be called the General Provident Fund (Central Services) (Amendment) Rules, 1970.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the General Provident Fund (Central Services) Rules, 1960 (hereinafter referred to as the said Rules), after Note 2 below sub-rule (1) of rule 16, the following Note shall be inserted, namely:—

“NOTE 3.—In case the sanctioning authority is satisfied that the amount standing to the credit of a subscriber in the Fund is insufficient and he is unable to meet his requirements otherwise than by withdrawal, the amount already withdrawn by the subscriber from the Fund to finance any insurance policy or policies under rule 17, together with interest thereon, calculated at the rate provided in rule 11, may be taken into account as an addition to the actual amount standing to his credit in the Fund for the purpose of the limit laid down in this sub-rule. After the amount of withdrawal admissible has been so determined, the amount already withdrawn from the Fund to finance any insurance policy or policies under rule 17, together with interest thereon, may be treated as final withdrawal and the difference, if any, between the amount so treated and the total amount of withdrawal admissible may be paid in cash.

For the above purpose, the Account Officer shall reassign the policy or policies to the subscriber or to the subscriber and the joint assured, as the case may be, and make it over to the subscriber who will then be free to utilise the same for the purpose for which it has been released”.

3. In clause (d) of sub-rule (1) of rule 24 of the said Rules, for the portion beginning with the brackets, letter and words “(d) pays or repays to the Fund” and ending with the words “the Account Officer shall”, the following shall be substituted, namely:—

“(d) pays or repays to the Fund the whole of any amount withheld or withdrawn from the Fund for any of the purposes mentioned in sub-clause (ii) of clause (a) of rule 17 and sub-clause (i) and (ii) of clause (b) of rule 17 with interest thereon at the rate provided in rule 11, or

(e) has been sanctioned withdrawal under rule 15 read with Note 3 below sub-rule (1) of rule 16,

the Account Officer shall—”.

[No. F. 37(2)-EV/69-I.]

S.O. 1114.—In exercise of the powers conferred by the proviso to article 309 and clause (5) of article 148 of the Constitution, and of all other powers enabling him in this behalf, the President, after consultation with the Comptroller and Auditor General of India in respect of persons serving in the Indian Audit and Accounts Department, hereby makes the following rules further to amend the Contributory Provident Fund Rules (India), 1962, namely:—

1. (1) These rules may be called the Contributory Provident Fund (India) (Amendment) Rules, 1970.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Contributory Provident Fund Rules (India), 1962 (hereinafter referred to as the said Rules), after Note 2 below sub-rule (1) of rule 17, the following Note shall be inserted, namely:—

“NOTE 3.—In case the sanctioning authority is satisfied that the amount standing to the credit of a subscriber in the Fund is insufficient and he is unable to meet his requirements otherwise than by withdrawal, the amount already withdrawn by the subscriber from the Fund to finance any insurance policy or policies under rule 19, together with interest thereon, calculated at the rate provided in rule 12 may be taken into account as an addition to the actual amount standing to his credit in the Fund for the purpose of the limit laid down in this

sub-rule. After the amount of withdrawal admissible has been so determined the amount already withdrawn from the Fund to finance any insurance policy or policies under rule 19, together with interest thereon, may be treated as final withdrawal and the difference, if any, between the amount so treated and the total amount of withdrawal admissible may be paid in cash.

For the above purpose, the Account Officer shall reassign the policy or policies to the subscriber or to the subscriber and the joint assured as the case may be, and make it over to the subscriber who will then be free to utilize the same for the purpose for which it has been released".

3. In sub-rule (1) of rule 26 of the said Rules—

(a) in clause (d), the word "or" shall be inserted at the end; and

(b) after clause (d), the following clause shall be inserted, namely:—

"(e) has been sanctioned withdrawal under rule 16 read with Note 3 below sub-rule (1) of rule 17."

[No. F. 37(2)-EV/69-II.]

S. P. MAHNA, Dy. Secy.

(Department of Banking)

New Delhi, the 23rd February 1970

S.O. 1115.—In exercise of the powers conferred by Section 53 read with Section 56 of the Banking Regulation Act, 1949 (10 of 1949), the Central Government on the recommendation of the Reserve Bank of India, hereby declares that the provisions of sub-section (1) of Section 11 of the said Act, shall not apply to the undernoted co-operative banks for a period of two years with effect from 1st March, 1969.

1. The Ambur Urban Co-operative Bank Ltd., Ambur (N.A.)
2. The Raichur Distt. Industrial Co-operative Bank Ltd., Raichur.
3. The Bishnupur Town Co-operative Bank Ltd., Bishnupur (Bankura).
4. The Sankeshwar Urban Co-operative Credit Bank Ltd., Sankeshwar.
5. Shri Jhabua Nagrik Sahakari Bank Simiti, Jhabua (M.P.).

[No. F. 18/4/70-SB.]

K. YESURATNAM, Under Secy.

बिंस मंत्रालय

(बैंकिंग विभाग)

नई दिल्ली, 23 फरवरी, 1970

एस० आर० 1115:—बैंकिंग विनियमन अधिनियम, 1949 (1949 के दसवें) की धारा 56 के साथ पठित-धारा 53 के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारतीय रिजर्व बैंक की सिफारिश पर, केन्द्रीय सरकार एतद्वारा यह घोषित करती है कि उक्त अधिनियम की धारा 11 की उप-धारा (1) के उपबन्ध पहली मार्च 1969 से लेकर 2 वर्ष की अवधि के लिए निम्नलिखित सरकारी बैंकों पर लागू नहीं होंगे:—

1. दी अम्बर अर्बन कोऑपरेटिव बैंक लिमिटेड अम्बर (एन० ए०)
2. दी रायचूर डिस्ट्रिक्ट इण्डस्ट्रियल कोऑपरेटिव बैंक लिमिटेड, रायचूर
3. दी विष्णुपुर टाउन कोऑपरेटिव बैंक लिमिटेड विष्णुपुर, बांकुरा
4. दी शंकेश्वर अर्बन कोऑपरेटिव क्रेडिट बैंक लिमिटेड, शंकेश्वर
5. श्री ज़ाबुआ नागरिक सहाकारी बैंक समिति ज़ाबुआ (मध्य प्रदेश)

[स० एफ० 18/4/70-एस० बी०]

के० येसुरत्नम, अनुसचिव ।

(Department of Banking)

New Delhi, the 10th March 1970

S.O. 1116.—In pursuance of the proviso to Sub-section 5 of Section 7 of the Banking Companies (Acquisition and Transfer of Undertakings) Ordinance, 1970, the Central Government hereby appoints Shri K. K. Pai, General Manager, Syndicate Bank, as Custodian, Syndicate Bank, with effect from the afternoon of 28th February, 1970 until further orders, *vice* Shri T. A. Pai, appointed as Chairman, Life Insurance Corporation of India.

[No. F. 4(10)-BC/70.]

S. M. KELKAR, Dy. Secy.

(Department of Revenue and Insurance)

INCOME-TAX ESTABLISHMENTS

New Delhi, the 11th February 1970

S. O. 1117.—Consequent on his transfer, the powers conferred on the officer, mentioned below by the Ministry of Finance (Department of Revenue and Insurance) notification noted against his name, are hereby withdrawn with effect from the date shown against his name:—

Sl. No.	Name of the Officer	Notification No. and date	Date from which powers are withdrawn
1	Sh. M. S. Moray	No. 323—Income-tax Establishments dated 22-8-1969.	15-1-1970 (AN)

[No. 55/F. No. 57/20/70-Ad. VI]

(राजस्व तथा बीमा विभाग)

आय-कर स्थापन

नई दिल्ली, 11 फरवरी, 1970

एस०ओ० 1917:—नीचे वर्णित अधिकारी की उसके नाम के सामने लिखी दिनांक मंत्रालय (राजस्व और बीमा विभाग) की अधिसूचना द्वारा उसे प्रदत्त शक्तियाँ, उसके अन्तरण के परिणाम-स्वरूप उसके नाम के सामने दिखाई गई तारीख से एतद्द्वारा व्यपहृत की जाती हैं :-

क्रम सं०	अधिकारी का नाम	अधिसूचना सं० और तारीख	वह तारीख जिससे शक्तियाँ व्यपहृत की गई हैं।
1	श्री एम०एस० मोरे	संख्या 323-आयकर स्थापन, तारीख, 22-8-1969	15-1-1970 (अपराहृत)

[सं० 55]

S. O. 1118.—In pursuance of clause (b) of sub-rule (ii) of rule 2 of the Appellate Tribunal Rules 1946, the Central Government has been pleased to appoint the undermentioned officers as Authorised Representative/Junior Authorised Representative, Income-tax Appellate Tribunal with effect from the date noted against them to appear, plead, and act for any Income-tax authority who is a party to any proceedings before the Income Tax Appellate Tribunal:—

Sl. No.	Name of the Officer	Appointed as	Date of Appointment
1	Sh. A. Y. Mehta, Inspecting Assistant Commissioner of Income Tax, Nagpur.	Authorised Representative, Income-tax Appellate Tribunal, Nagpur.	19-1-70 (FN)
2	Sh. P. Ramamurty, Income-tax Officer, Class II, Madhya Pradesh charge.	Junior Authorised Representative, Income-tax Appellate Tribunal, Nagpur.	19-1-70 (FN)

[No. 56/F. No. 57/20/70-Ad. VI.]

M. G. THOMAS, Under Secy.

एस० ओ० 1118:—अपील अधिकरण नियम, 1966 के नियम 2 के उपनियम (ii) के खण्ड (ख) का अनुसरण करते हुए केन्द्रीय सरकार अपने प्रमादानुसार नीचे वर्णित अधिकारियों को, किसी ऐसे आय-कर प्राधिकारी की ओर से जो आय-कर अपील अधिकरण के समक्ष किसी कार्यवाही में पक्षकार हो, उपसंजात होने, अभिवचन करने और कार्य करने के लिए प्राधिकृत प्रतिनिधि कनिष्ठ प्राधिकृत प्रतिनिधि आय-कर अपील अधिकरण, के रूप में उनके नामों के सामने के लिखी तारीख से नियुक्त करती है :—

क्रम सं०	अधिकारी का नाम	निम्नलिखित के रूप में नियुक्त	नियुक्ति की तारीख
1	श्री ए० वाई० मेहता, निरीक्षक सहायक आयुक्त, आय-कर, नागपुर	प्राधिकृत प्रतिनिधि आय-कर अपील अधिकरण, नागपुर	19-1-70 (पूर्वाह्न)
2	श्री पी० राममूर्ति, आय-कर अधिकारी, वर्ग 2, मध्य प्रदेश चार्ज	कनिष्ठ प्राधिकृत प्रतिनिधि आय-कर अपील अधिकरण, नागपुर	19-1-70 (पूर्वाह्न)

[सं० 56]

एम० जी० थामस,
अवर सचिव ।

COLLECTORATE OF CENTRAL EXCISE, WEST BENGAL, CALCUTTA

CENTRAL EXCISE

Calcutta, the 6th February 1970

S.O. 1119. In exercise of the powers conferred on me under Rule 5 of the Central Excise Rules, 1944, I hereby empower all officers of and above the rank of "Assistant Collectors of Central Excise" to exercise within their respective jurisdictions the powers of the "Collector of Central Excise under Rule 173-I of the Central Excise Rules, 1944."

[No. 7/1970.]

D. R. KOHLI, Collector.

CENTRAL EXCISE COLLECTORATE, BARODA

V TOBACCO: CENTRAL EXCISE

Baroda, the 20th February 1970

S.O. 1120.—In exercise of the powers conferred by Rule 5 of the Central Excise Rules, 1944, I authorise the officers not below the rank of an Assistant Collector of Central Excise in the Baroda Central Excise Collectorate to exercise within their respective jurisdictions the powers of the Collector under rule 206(3) of Central Excise Rules, 1944 in regard to release of conveyances only, seized for violation of the Central Excise Rules.

[No. 1/1970.]

L. M. KAUL, Collector.

COLLECTOR OF CENTRAL EXCISE, BANGALORE-1

CENTRAL EXCISE

Bangalore, the 21st February 1970

S.O. 1121.—In exercise of the powers conferred on me by Rule 233 of the Central Excise Rules, 1944, I hereby direct all the assesseees of excisable goods in this Collectorate to whom Self Removal Procedure has been extended, as laid down in Chapter VIIA of the Central Excise Rules, 1944, notified under Government of India's Notification No. 171/69, dated the 21st June, 1969, that they shall intimate, immediately after 6.00 p.m. on the day prior to the Budget Day, to the Superintendent of Central Excise in charge of the Range, with a copy to the proper officer, a declaration in the appended form, furnishing the following information.

- (a) the number of last gate pass (G.P. 1 and G.P. 2) issued by them upto 6 P.M. on the day prior to the Budget Day.
- (b) the closing balance of stocks held by them at 6.00 P.M. on that day.

Such a declaration addressed to the Superintendent, in a sealed cover, along with a copy thereof shall be handed over to the Central Excise Officer, specially posted in charge of the factory for giving clearances on the Budget Day. Other assesseees, who may be situated away from the Headquarters of the Range Office, are given the option to send the declarations, either by hand or through telegram despatched on the same day.

ANNEXURE

DECLARATION OF STOCK, ETC., ON PRE-BUDGET DAY BY A
MANUFACTURER WORKING UNDER S.R.P.

1. Name of licensee.
2. L. 4 licence No.
3. Commodity.

I/We hereby declare that the Serial Number of last gate pass(es) in form G.P.1/G.P.2 issued by me/us and the balance in hand of the excisable good/s manufactured by me/us on *(date).....at 6 P.M. was/were as under:—

Name of goods with Tariff item No.	Serial No. of last G.P.1/G.P.2	Closing balance of excisable goods in stock as per R.G.1.
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Certified that the particulars given above are correct.

Place:.....

Date:.....

Signature of the assessee or his
authorised agent.

*One day prior to the presentation of annual/supplementary budget of the
Union Government.

Handed over to Superintendent/A.C. of Central Excise on.....
at.....

[No. 1/70.]

M. C. DAS, Collector.

CENTRAL EXCISE COLLECTORATE, ALLAHABAD

CORRIGENDUM

Allahabad, the 21st October 1969

S.O. 1122.—The following amendments may be made in the Collectorate Notification No. 6/CE/69, dated 21st October 1969, issued under this office endt. C.N. V(α) 315-Stt/68, dated 20th December, 1969:—

- (1) In serial No. 15(b) for the schedule appended with the above add after the entire Bijnor district "including village Jainagar falling in Thakurdwara tehsil of Moradabad district."
- (2) In serial No. 21 after entire Thakurdwara and before 'and Moradabad tehsils' add "except village Jainagar".

This amendment shall be deemed to have come into effect from 21st October 1969 i.e. the date of original notification.

[No. 6/CE/69.]

H. N. RAINA, Dy. Collector.

MINISTRY OF FOREIGN TRADE

(Office of the Joint Chief Controller of Imports and Exports)

ORDER

Calcutta, the 17th January 1970

SUBJECT:—*Order cancelling the Customs Purpose Copy and Exchange Control Purpose Copy of Licence No. P/EI/0144682/C in connection with the issue of duplicate copy of the same.*

S.O. 1123.—M/s. Greaves Cotton & Co. Ltd., 16, Hare Street, Calcutta-1 were granted import licence No. P/EI/0144682/C, dated 14th June 1968 for Rs. 21,450 (Rupees twenty one thousand four hundred and fifty only). They have now applied for issue of a duplicate copy of Customs Purposes Copy and Exchange Control Purposes Copy of the said licence on the ground that the original of both the copies have been lost. It is further stated that the original licence was neither registered with any Custom House, and not utilised.

In support of this contention, the applicant has filed an affidavit to the effect that the original copies of the licence have been lost. I am satisfied that original Customs Purposes Copy and Exchange Control Purposes Copy of the Licence No. P/EI/0144682/C, dated 14th June 1968, have been lost and directed that duplicate of both the copies of the licence in question should be issued to the applicant. The original copies of the licence are cancelled.

[No. F. 36(5)-II/3/AM'69/EI-II.]

M. S. PURI,

Dy. Chief Controller of Imports and Exports.

(Office of the Joint Chief Controller of Imports and Exports)

(Central Licensing Area)

ORDERS

New Delhi, the 6th February 1970

S.O. 1124.—M/s. Prainchand Chajjimal, 483, Shaish Mahal, Bazar Sita Ram, Delhi, were granted an Established Importers licence No. P/E/0172572, dated 2nd December 1969 for Rs. 1,000 for import of Artist Brushes including Hogs Hair Brushes as per current Red Book. They have applied for the duplicate customs purpose and/Exchange Control Copy of the said licence on the ground that the original has been lost or misplaced. It is, further stated by the firm that the original licence was not registered with Customs House and hence has not been utilised.

I am satisfied that the original Custom Purpose and/Exchange Control Copy stating that the original Customs Purpose and/Exchange Control Copy of the licence has been lost or misplaced.

I am satisfied that the original Custom Purpose and/Exchange Control Copy of the said licence has been lost and direct that a duplicate licence (both copies) should be issued to the applicant. The original Custom Purpose and/Exchange Control Copy of the licence is cancelled.

[No. F. 324/IV/1/AM.70/QL CLA.]

S.O. 1125.—M/s. Friends United Co. 11-12-13/A, Bhagirath Palace, Chandni Chowk, Delhi, were granted an Established Importers licence No. P/E50170677, dated 2nd July 1969 for Rs. 1,000 for Import of Garage Tools as per Red Book for AM.70 licensing period. They have applied for the duplicate customs purpose copy of the said licence on the ground that the original has been lost or misplaced. It is, further stated by the firm that the original Custom Purpose Copy of the licence was not registered with Customs House and hence has not been utilised.

In support of this declaration, the applicant has filed an affidavit duly attested stating that the original Customs Purpose Copy of the licence has been lost or misplaced.

I am satisfied that the original Custom Purpose Copy of the said licence has been lost and direct that a duplicate Customs Purpose Copy should be issued to the applicant. The original Custom Purpose Copy of the licence is cancelled.

[No. F. 275(b)/IV/8/AM.70/QL.CLA.]

S.O. 1126.—M/s. Friends United Co. 11-12-13/A, Bhagirath Palace, Chandni Chowk, Delhi were granted an Established Importers licence No. P/E/0169680, dated 21st May 1969 for Rs. 750, for import of Garage Tools as per appendix 25 of the Red Book for AM.69 Licensing Period. They have applied for the duplicate customs purpose copy of the said licence on the ground that the original has been lost or misplaced. It is, further stated by the firm that the original Custom Purpose Copy of the licence was not registered with Customs House and hence has not been utilised.

In support of this declaration, the applicant has filed an affidavit duly attested stating that the original Customs Purpose Copy of the licence has been lost or misplaced.

I am satisfied that the original Custom Purpose Copy of the said licence has been lost and direct that a duplicate Customs Purpose Copy should be issued to the applicant. The original Custom Purpose Copy of the licence is cancelled.

[No. F. 275/b/IV/32/AM.69/QL.]

RAM MURTI SHARMA,

Jt. Chief Controller of Imports and Exports.

(Office of the Joint Chief Controller of Imports and Exports)

(Central Licensing Area)

ORDER

New Delhi, the 19th February 1970

S.O. 1127.—M/s. Amar Nath and Sons (Regd.) 19, Khurshid Market, Sadar Bazar, Delhi-6, was granted an Established Importers licence P/E/0170863, dated 9th July 1969 for Rs. 1,000 for import of Artists Brushes including Hogs Hair Brushes. They have applied for the duplicate customs purpose copy of the said licence on the ground that the original has been lost or misplaced. It is, further stated by the firm that the original Custom Purpose Copy of the licence was not registered with Customs House and hence has not been utilised.

In support of this declaration, the applicant has filed an affidavit duly attested stating that the original Customs Purpose Copy of the licence has been lost or misplaced.

I am satisfied that the original Custom Purpose Copy of the said licence has been lost and direct that a duplicate Customs Purpose Copy should be issued to the applicant. The original Custom Purpose Copy of the licence is cancelled.

[No. F. 324/IV/5/AM.70/QL.CLA.]

(Sd.) Illegible,

Dy. Chief Controller of Imports and Exports.

(Office of the Joint Chief Controller of Imports and Exports)

(Central Licensing Area)

ORDER

New Delhi, the 10th March 1970

S.O. 1128.—M/s. Green Rubber Works, Basti Sheikh, Jullundur City, were granted import licence No. P/S/1614926/C/XX/32/D/27-28, dated 2nd September 1969 for Rs. 5,000 for the import of Titanium Dioxide, Rubber Chemicals and Synthetic Resins. They have applied for issue of the duplicate Exchange Control Purpose copy of the said licence on the ground that the original Exchange Control Copy has been lost/misplaced without having been utilised.

The applicant have filed an affidavit in support of their contention as required under para. 302 read with appendix 8 of I.T.C. Hand Book of Rules and Procedure, 1969. I am satisfied that the original Exchange Control copy has been lost/misplaced.

In exercise of the powers conferred on me, under clause 9(cc) of Import (Control) Order, 1955 dated 7th December 1955, as amended upto date, I order the cancellation of the Exchange Control copy of Import licence No. P/S/1614926/C/XX/32/D/27-28, dated 2nd September, 1969.

The applicant is now being issued a duplicate Exchange Control Purpose copy of the above licence in accordance with the provision of para. 302 of I.T. C. Hand Book of Rules and Procedure, 1969.

M/s. Green Rubber Works,
Basti Sheikh,
Jullundur City.

[No. F. NP/G-6/AM.69/AU.PB/CLA.]

A. L. BHALLA,

Dy. Chief Controller of Imports and Exports.

MINISTRY OF INDUSTRIAL DEVELOPMENT, INTERNAL TRADE AND COMPANY AFFAIRS

(Department of Industrial Development)

(Indian Standards Institution)

New Delhi, the 9th March 1970

S.O. 1129.—In pursuance of sub-regulation (4) of regulation 14 of the Indian Standards Institution (Certification Marks) Regulation, 1955, as amended from time to time, the Indian Standards Institution hereby notifies that the licence No. CM/L-1985, particulars of which are given below has been cancelled with effect from 1st March, 1970:

Licence No. & Date	Name and Address of the licensee	Article/Process Covered/ by the licence cancelled	Relevant Indian Standard
CM/L-1985 4-6-1969	M/s. Tribeni Tissues Private Ltd., Chandrahati, P.O. Tribeni, Distt. Hooghly, having their Office at 24-B, Park Street, Calcutta-16.	Base paper for Carbon Paper Type 1 Grade 5 & Type 2 Grade 3	IS: 3413-1966 Specification for Base Paper for Carbon Paper

[No. CMD/55:1985.]

A. K. GUPTA,

Deputy Director General.

MINISTRY OF PETROLEUM AND CHEMICALS AND MINES AND METALS

(Department of Petroleum)

New Delhi, the 9th March 1970

S.O. 1130.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of Petroleum from G.G.S.III to G.G.S.I. in the the Nawagam Oilfield, in Gujarat State, Pipelines should be laid by the Oil and Natural Gas Commission and that for the purpose of laying such Pipelines, it is necessary to acquire the Right of User in the land described in the schedule annexed thereto,

2. Now, therefore, in exercise of the powers conferred by Sub-section (i) of the Section 3 of the Petroleum Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein.

3. Any person interested in the said land, may, within 21 days from the date of this notification object to the laying of the pipelines under the land to the Competent Authority, at Western Region, Shed No. 27, Makarpura Road, Near Central Workshop, Baroda 4, in the Office of the Gujarat Pipelines (Oil and Natural Gas Commission), Baroda. Every person making such an objection shall also state specifically whether he wishes to be heard in person or by a legal practitioner.

SCHEDULE

Laying pipeline From G.G.S. III to G.G.S. I of Nawagam Project width of the line 15 Metres

State —Gujarat.

District:—KAIRA.

Taluka —Matar.

Village	Survey No.	Hector	Ac.	P. Ac.
Nawagam	746	0	4	65
	747 part	0	8	25
	747 part.	0	3	60
	747 part	0	1	20
	748	0	3	60
	749	0	9	75
	751/1	0	0	60
	738	0	21	15
	706	0	4	35
	615	0	1	50
	621	0	3	90
	619	0	0	90
	620 part	0	1	50
	620 part	0	7	65
	618	0	6	45
	617/3	0	6	52
	631	0	0	15
	632/4	0	5	85
	632/5	0	2	60
	632/6	0	2	60
	609 part	0	1	45
	609 part	0	0	65
	464/2+4	0	6	15
	464/3	0	4	65
	470/2	0	10	35
	470/1	0	6	44
	480/2	0	1	92
	480/1	0	4	62
	481/1	0	2	82
	493	0	5	33
	492	0	2	42
	491	0	1	49
	482	0	10	1
	490	0	3	30
	489 part	0	4	50
	489 part (W)	0	9	00

[No. 29(7)/68-IOC/Lab.&Legis.]

S.O. 1131.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of Petroleum from G.G.S. III to G.G.S. I in the Nawagam Oilfield, in Gujarat State, Pipelines should be laid by the Oil and Natural Gas Commission and that for the purpose of laying such Pipelines, it is necessary to acquire the Right of User in the land described in the schedule annexed thereto

2. Now, therefore, in exercise of the powers conferred by Sub-section (i) of the Section 3 of the Petroleum Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein.

3. Any person interested in the said land may, within 21 days from the date of this notification object to the laying of the pipelines under the land to the Competent Authority, at Western Region, Shed No. 27, Makarpura Road, Near Central Workshop, Baroda-4, in the Office of the Gujarat Pipelines (Oil and Natural Gas Commission), Baroda. Every person making such an objection shall also state specifically whether he wishes to be heard in person or by a legal practitioner.

SCHEDULE

Laying pipeline from G.G.S. III to G.G.S. I of Nawagam Project width of the line 15 Meters

State:—Gujarat

District:—Kaira

Taluka:—Majr

Village	Survey No.	Hectare	Are.	P. Arc.
Pansoli	304 part.	0	9	75
	304 part.	0	5	10
	305 part	0	12	00
	305 part.	0	4	50
	305 part.	0	6	00
	305 part.	0	8	10
	293	0	1	50
	290 part	0	4	50
	290 part.	0	3	45
	289 part.	0	29	40
	289 part.	0	0	24
	287	0	4	50
	288	0	3	75
	267 part	0	34	6
	267 part (W)	0	3	60
	263	0	12	00
	258	0	8	85
	249 part.	0	10	20
	249 part.	0	15	90
	248	0	9	15

[No. 29(7)/68-IOC/Lab.RLegis.]

S.O. 1132.—Whereas it appears to the Central Government that it is necessary in the Public interest that for the transport of Petroleum from Well No. 39 BQ to G.G.S. II in the Nawagam Oilfield, in Gujarat State, Pipelines should be laid by the Oil and Natural Gas Commission and that for the purpose of laying such Pipelines, it is necessary to acquire the Right of User in the land described in the schedule annexed thereto.

2. Now, therefore, in exercise of the powers conferred by Sub-Section (i) of the Section 3 of the Petroleum Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein.

3. Any person interested in the said land may, within 21 days from the date of this notification object to the laying of the pipelines under the land to the Competent Authority, at Western Region, Shed No. 27, Makarpura Road, Near Central Workshop, Baroda-4, in the Office of the Gujarat Pipelines (Oil and Natural Gas Commission), Baroda. Every person making such an objection shall also state specifically whether he wishes to be heard in person or by a legal practitioner.

SCHEDULE

(Laying the pipeline from 39 BQ to G.G.S. II)

State—Gujarat

District—Kaira

Taluka—Matar

Village	Survey No.	Hectare	Are.	P. Arc.
Kathawada	157/1	0	2	52

[No. 29(7)/68-IOC/Lab. & Legis.]

S.O. 1133.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of Petroleum from Well No. B.A.F.-14 to G.G.S. II in the Nawagam Oilfield, in Gujarat State, Pipelines should be laid by the Oil and Natural Gas Commission and that for the purpose of laying such Pipelines, it is necessary to acquire the Right of User in the land described in the schedule annexed thereto.

2. Now, therefore, in exercise of the powers conferred by Sub-section (1) of the Section 3 of the Petroleum Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein.

3. Any person interested in the said land may, within 21 days from the date of this notification object to the laying of the pipelines under the land to the Competent Authority, at Western Region, Shed No. 27, Makarpura Road, Near Central Workshop, Baroda-4, in the Office of the Gujarat Pipelines (Oil and Natural Gas Commission), Baroda. Every person making such an objection shall also state specifically whether he wishes to be heard in person or by a legal practitioner.

SCHEDULE

(Laying the pipeline from BAF-14 to G.G.S. II)

State—Gujarat

District—Kaira

Taluka—Matar

Village	Survey No.	Hectare	Are.	P. Arc.
Kathawada	266/2	0	3	48
	350	0	1	50
	351/2	0	4	80
	351/3	0	0	21
	353/1	0	1	56
	353/2	0	1	20
	356/3	0	1	92
	354/1	0	4	20
	354/2	0	4	56
	355	0	1	68
	142/2	0	0	60
	138/2	0	0	60

[No. 29(7)/68-IOC/Lab. & Legis.]

S.O. 1134.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of Petroleum from Well No. BDE-29 to G.G.S. I in the Nawagam Oilfield, in Gujarat State, Pipelines should be laid by the Oil and Natural Gas Commission and that for the purpose of laying such Pipelines, it is necessary to acquire the Right of User in the land described in the schedule annexed thereto.

2. Now, therefore, in exercise of the powers conferred by Sub-section (i) of the Section 3 of the Petroleum Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein.

3. Any person interested in the said land may, within 21 days from the date of this notification object to the laying of the pipelines under the land to the Competent Authority, at Western Region, Shed No. 27, Makarpura Road, Near Central Workshop, Baroda-4, in the Office of the Gujarat Pipelines (Oil and Natural Gas Commission), Baroda. Every person making such an objection shall also state specifically whether he wishes to be heard in person or by a legal practitioner.

SCHEDULE

(Laying the pipeline from BDE-29 to G.G.S. II)

State:—Gujarat

District:—Kaira

Taluka:—Matar

Village	Survey No.	Hectare	Ac.	P. Ac.
Kathawada	252/2/1	0	2	28
	252/1	0	2	08

[No. 29(7)/68-IOC/Lab. & Legis.]

New Delhi, the 16th March 1970

S.O. 1135.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of Petroleum from the well No. BDV-54 to BAF-14 in the Nawagam Oilfield, in Gujarat State, Pipelines should be laid by the Oil and Natural Gas Commission and that for the purpose of laying such Pipelines, it is necessary to acquire the Right of User in the land described in the schedule annexed thereto.

2. Now, therefore, in exercise of the powers conferred by Sub-section (i) of the Section 3 of the Petroleum Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein.

3. Any person interested in the said land may, within 21 days from the date of this notification object to the laying of the pipelines under the land to the Competent Authority, at Western Region, Shed No. 27, Makarpura Road, Near Central Workshop, Baroda-4, in the Office of the Gujarat Pipelines (Oil and Natural Gas Commission), Baroda. Every person making such an objection shall also state specifically whether he wishes to be heard in person or by a legal practitioner.

SCHEDULE

(Laying the pipeline from BDV-54 to BAF-14)

State:—Gujarat

District:—Kaira

Taluka:—Matar

Village	Survey No.	Hectare.	Ac.	P. Ac.
Kath: wada	300/2	0	0	48
	298/2	0	5	68
	298/1	0	2	84
	297/1	0	7	00
	297/2	0	4	16
	285	0	0	42
	286	0	5	88
	284/3	0	6	72
	V. P. Road	0	0	60
	273	0	5	40

[No. 29(7)/68-IOC/Lab.&Legis.]

S.O. 1136.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of Petroleum from the well No. BS-23 to BC-15 in the Nawagam Oilfield, in Gujarat State, Pipelines should be laid by the Oil and Natural Gas Commission and that for the purpose of laying such Pipelines, it is necessary to acquire the Right of User in the land described in the schedule annexed thereto.

2. Now, therefore, in exercise of the powers conferred by Sub-Section (i) of the Section 3 of the Petroleum Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein.

3. Any person interested in the said land may, within 21 days from the date of this notification object to the laying of the pipelines under the land to the Competent Authority, at Western Region, Shed No. 27, Makarpura Road, Near Central Workshop, Baroda-4, in the Office of the Gujarat Pipelines (Oil and Natural Gas Commission), Baroda. Every person making such an objection shall also state specifically whether he wishes to be heard in person or by a legal practitioner.

SCHEDULE

(Laying the pipeline from BS-23 to BC-15 to G.G.S. II)

State:—Gujarat

District—Kaira

Taluka:—Matar

Village	Survey No.	Hectare	Are	P. Are
KATHAWADA	65	0	14	40
	V. P. Road	0	1	20
	66	0	2	55
	128	0	19	56

[No. 29(7)/68-IOC/Lab.&Legis.]

ERRATA

New Delhi, the 6th March, 1970

S.O. 1137.—In the final notification under Section 6 of the Petroleum Pipelines (Acquisition of Right of User in Land) Act, 1962 of the Government of India in the Ministry of Petroleum and Chemicals and Mines and Metals (Department of Petroleum) No. 29/7/68-IOC/Lab.(5) dated 10-4-1969, published under S.O. No. 1465 in the Gazette of Government of India Part II, Section 3 sub-section (ii) dated 19-4-69, for laying the petroleum pipeline from 39 BQ to G.G.S. II.

At page No. 1377 at Village Kathawada, Taluka-Matar

(I)

Read

For

Sl. No.	Hectare	Are.	P. Are.	Hect.	Are.	P. Are.	Against S.No.
120	0	3	24	0	0	92	120
121	0	8	64	0	1	31	121
118	0	0	30	0	1	13	118
123	0	9	36	0	7	24	123
159	0	13	50	0	12	26	159
157/2	0	17	10	0	13	83	157/2
156	0	13	68	0	19	50	156
166	0	7	92	0	4	60	166

(II) Omit Survey No. 165/1.

[No. 29(7)/68-IOC/Lab.&Legis.]

S.O. 1138.—In the final notification under section 6 of the Petroleum Pipelines (Acquisition of Right of User in Land) Act, 1962 of the Government of India in the Ministry of Petroleum and Chemicals and Mines and Metals, (Department of Petroleum) No. 29/7/68-IOC/Lab. (3) dated 10-4-69, published under S.O. No. 1464 in the Gazette of Government of India Part II, Section 3 Sub-section (ii), dated 19-4-1969 for laying the petroleum pipeline from BR TO BDE-29 TO G.G.S. II.

At page No. 1375 at Village-Kathawada, Taluka-Matar, Dist. Kaira.

(I)

Read

For

Survey No.	Hectare	Are.	P. Are.	Hectare	Are.	P. Are.	Against S. No.
253	0	6	30	0	10	66	253

II) Omit survey Nos. 173, 153, 160/1, 144/6, 145/2, 145/1, 146, 147/2, 147/3.

[No. 25(7)/68-ICC/Lab. & Legis.]

S.O. 1139.—In the final notification under Sec. 6 of the Petroleum Pipelines (Acquisition of Right of User in Land) Act, 1962 of the Government of India in the Ministry of Petroleum and Chemicals and Mines and Metals (Department of Petroleum) [No. 29/7/68-ICC/Lab. (8)] dated 10-4-1969, published under S.O. No. 1469, in the Gazette of Government of India Part II, Section 3, sub-section (ii) dated 19-4-1969 for laying the Petroleum pipeline from BAF-14 to G.G.S. II.

At page No. 1379 at Village: Kathawada Taluka: Dist. Kaira.

(I)

Read

For

Survey No.	H.	Are.	P. Are.	Hectare	Are.	P. Are.	Against S. No.
271/1	0	1	20	0	2	80	271/1
275	0	1	32	0	0	23	275
267/2	0	2	52	0	1	76	267/2
267/1	0	3	72	0	4	31	267/1
266/P	0	0	91	0	5	79	266/P
143	0	14	52	0	19	68	143
138/3	0	1	92	0	0	14	138/3
147/1	0	3	38	0	1	42	147/1
147/3	0	2	16	0	3	04	147/3

(ii) Omit S. Nos. 271/2, 263, 144/6, 146, 147/2.

[No. 29(7)/68-IOC/Lab & Legis.]

New Delhi, the 13th March, 1970

S.O. 1140.—In the notification of Government of India, in the Ministry of Petroleum and Chemicals and Mines and Metals (Department of Petroleum) issued under No. 20/3/67-IOC/Lab. & Legis., dated 22-12-1969 & published under S.O. No. 90 in the Gazette of India, Part II Section 3, Sub-Section (ii) dated 10-1-1970.

At Page No. 318 & 319, Village: BULESHWARPUR, AMBAVPURA, Taluka: Kadi, Dist:—Mehsana.

Read				For			
Name of Village	S. No.	Area		Name of Village	S. No.	Area	
		H. Arc.	P. Arc.			H. Arc.	P. Arc.
Bileshwarpura	V.P. Road Track.	0 1	4	Bileshwarpura	V.P. Road Track.	0 1	9
Ambavpura Do.	S.No. 179 S.No.133/1	0 14 0 6	76 50	Ambavpura Do.	S. No. 179 S.No. 131/1	0 11 0 6	76 50

[No. 20/3/67-10C/Lab. & Legis.]

M. V. S. PRASADA (RAU, Under Secy.

MINISTRY OF HEALTH, FAMILY PLANNING AND WORKS, HOUSING AND URBAN DEVELOPMENT

(Department of Health)

New Delhi, the 18th March 1970

S.O. 1141.—Whereas in pursuance of the provisions of clause (b) of sub-section (1) of section 3 of the Indian Medical Council Act, 1956 (102 of 1956), Dr. Ishwari Charan Shukla, Professor of E.N.T., Government Medical College, Jabalpur, has been elected as a member of the Medical Council of India with effect from the 8th February, 1970 vice Dr. D. S. Choudhary, who has ceased to be a member under sub-section (3) of section 7 of the said Act.

Now, therefore, in pursuance of sub-section (1) of section 3 of the said Act, the Central Government hereby makes the following further amendment in the notification of the Government of India in the late Ministry of Health No. 5-13/69-MI, dated the 9th January, 1960, namely:—

In the said notification, under the heading "Elected under clause (b) of sub-section (1) of section 3", for the entry against serial No. 13, the following entry shall be substituted, namely:—

"Dr. Ishwari Charan Shukla, Professor of E.N.T., Government Medical College, Jabalpur".

[No. F. 4-17/69-MPT.]

S.O. 1142.—In exercise of the powers conferred by sub-section (2) of section 11 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after consulting the Medical Council of India, hereby makes the following amendments in the First Schedule to the said Act, namely:—

In the said Schedule—

(i) in the entries relating to the University of Allahabad, after the existing entry, the following entries shall be inserted, namely:—

"Doctor of Medicine (General Medicine), M.D. (Genl. Med.); All.

Doctor of Medicine (Social & Preventive Medicine), M.D. (Soc and Prev. Med.); All."

- (ii) in the entries relating to the University of Agra, after the entry "Diploma in Medical Radiology and Electrology, D.M.R.E.", the following entries shall be inserted, namely:—

"Doctor of Medicine (Paediatrics), M.D.(Paed.); Agra.

Diploma in Anaesthesiology, D.A., Agra.

Diploma in Tuberculosis and Chest Diseases, D.T.C.D., Agra.

Diploma in Obstetrics and Gynaecology, D.G.O., Agra."

- (iii) in the entries relating to the University of Delhi after the entry "Diploma in Child Health, D.C.H.", the following entries shall be inserted, namely:—

"Master of Science (Medical Bacteriology), M.Sc. (Med. Bact.); Delhi.

Doctor of Medicine (Medical Microbiology), M.D. (Med. Micro.); Delhi".

- (iv) after the entry relating to the Calicut University, the following entries shall be inserted, namely:—

"Kanpur University—

Bachelor of Medicine and Bachelor of Surgery, M.B.B.S., Kanpur.

Doctor of Medicine (Medicine), M.D. (Med.); Kanpur.

Master of Surgery (Orthopaedics), M.S. (Orth.); Kanpur.

Diploma in Ophthalmic Medicine and Surgery, D.O.M.E.; Kanpur.

Diploma in Orthopaedics, D. Orth.; Kanpur.

Doctor of Medicine (Pathology), M.D. (Path.);

Master of Surgery (Ophthalmology), M.S. (Ophth.); Kanpur.

Doctor of Medicine (Physiology), M.D. (Phy.); Kanpur.

Diploma in Medical Radiology and Electrology, D.M.R.E., Kanpur.

Diploma in Anaesthesiology, D.A. (Anaes), Kanpur.

Diploma in Tuberculosis and Chest Diseases, D.T.C.D., Kanpur.

Diploma in Child Health, D.C.H., Kanpur.

Diploma in Gynaecology and Obstetrics, D.G.O., Kanpur.

"Berhampur University—

Bachelor of Medicine and Bachelor of Surgery, M.B.B.S., Berhampur.

[No. F. 18-4/70-MPT.]

R. MURTHI, Under Secy.

(Department of Works, Housing and Urban Development)

New Delhi, the 13th March 1970

S.O. 1143.—In exercise of the powers conferred by section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1958 (32 of 1958), the Central Government hereby makes the following further amendments in the notification of the Government of India in the late Ministry of Works, Housing and Supply (Department of Works and Housing) S.O. No. 2982 dated the 22nd August, 1967 namely:—

In the Table below the said notification for the existing entries in columns 1 and 2, the following entries shall respectively be substituted, namely:—

THE TABLE

Designation of the officer	Categories of public premises and local limits of jurisdiction
(1)	(2)
Assistant Director, (Survey and Information) National Sugar Institute, Kanpur.	Premises under the administrative control of the Director, National Sugar Institute, Kanpur, including any land or building acquired under the Land Acquisition Act or under any other law for purposes of the National Sugar Institute situated within the municipal corporation limits of Kanpur.

[No. F. 21011(4)/66-Pol. IV.]

T. K. BALASUBRAMANIAN,

Deputy Director of Estates and Ex. Officio Under Secy.

MINISTRY OF LABOUR, EMPLOYMENT AND REHABILITATION

(Department of Labour and Employment)

New Delhi, the 5th March 1970

S.O. 1144.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following Award of the National Industrial Tribunal, New Delhi in respect of a complaint under section 33A of the said Act filed by Shri Raj Narain Tiwari, Higher Grade Assistant in the Banda Branch of the Life Insurance Corporation of India, which was received by the Central Government on the 28th February, 1970.

BEFORE THE NATIONAL INDUSTRIAL TRIBUNAL, HON'BLE SHRI D. S. DAVE, RETIRED CHIEF JUSTICE, RAJASTHAN.

(Reference: Complaint No. Comp./NIT/2/69 under section 33A of the Industrial Disputes Act, 1947 (14 of 1947) in the matter of Reference No. NIT-1 of 1969.)

BETWEEN

Shri Raj Narain Tiwari, Son of Shri Ganesh Tiwari, Resident of Shaktinagar, Yadav Colony, Garha Road, Jabalpur.

AND

Life Insurance Corporation of India, through Divisional Manager, Jabalpur Division, 46, Napier Town, Nirmal Chhaya Building, Jabalpur.

PRESENT:

Shri Madan Mohan, Advocate, with Shri S. N. Bhowmik, and Shri Raj Narain Tiwari.

Shri N. V. Phadke, Advocate with Shri B. H. Bhukhanwala, Dy. Secretary, and Shri A. W. Dharwadkar, Assistant Secretary, Life Insurance Corporation Central Office, Bombay, for the Life Insurance Corporation of India.

AWARD

This is a complaint under section 33A of the Industrial Disputes Act, 1947 (14 of 1947), (which will be referred to hereinafter as "the Act"), by Shri Raj Narain Tiwari, who is posted at present as a Higher Grade Assistant at the Branch Office of the Life Insurance Corporation of India at Banda (U.P.).

It would be proper to set out, first, those facts which are no longer in dispute between the parties and then refer to those incidents and circumstances which have given rise to this complaint.

Before his transfer to Banda in May 1969, the complainant was posted as a Higher Grade Assistant at the Divisional Office of the Life Insurance Corporation of India at Jabalpur. On the 11th March 1967, he was charge sheeted by the Zonal Manager, Central Zone of the Life Insurance Corporation of India, which will be referred to hereinafter as 'the Corporation'. The charge against him was, that on the 2nd January, 1967 at about 4.45 P.M., he along with a group of other employees of the Corporation, mobbed the chamber of the Divisional Manager, Jabalpur and prevented him and some other officers who were present in his room from leaving his chamber and confined them wrongfully till about 12 O'clock in the night; that he shouted abusive slogans against the Divisional Manager; and that all this was done to bring undue pressure on him for cancellation of the order of suspension of Shri T. S. Mann, Assistant P. H. S. Department, Jabalpur. After enquiry, the Enquiry Officer found him guilty of the charges. Thereafter, he was given another notice to show cause against the proposed penalty and eventually the Zonal Manager imposed upon him the penalty of reduction in his salary by three steps in his time-scale. The complainant preferred an appeal against the said order dated the 6th June 1968 to the Managing Director of the Corporation, but with no success. Thereafter, he presented a memorial to the Chairman of the Corporation and that memorial was dismissed on the 7th May 1969. The parties are on common ground thus far.

It has been submitted by the complainant that he was a member of the Jabalpur Division Insurance Employees' Union since the date of his joining the service of the Corporation in 1958. He was General Secretary of the said Union since May 1968. Prior to that he was Joint Secretary of the said Union. He was thus a "protected workman" within the meaning of that term as defined in Explanation to

sub-section (3) of section 33 of the Act. It is complained by him that the Chairman not only rejected his memorial, but further enhanced his punishment by ordering his transfer from Jabalpur. It is contended that this transfer was not effected in the ordinary course of business but as a measure of punishment for his trade-union activities including the same alleged misconduct of the 2nd January, 1967 for which he was already punished by the Zonal Manager. According to him, the Chairman had no authority to enhance the punishment under Regulation No. 49 of the (Staff) Regulations, 1960 (which will be referred to hereinafter as 'the (Staff) Regulations'). The power to enhance the punishment was vested either in the Corporation or in the appellate authority. Moreover, no opportunity was afforded to him before the punishment was enhanced. In pursuance of the Chairman's order, the Zonal Manager knowingly transferred him to Banda which was very far off from his place of residence at Jabalpur and which was reputed to be a bad place where the employees of the Corporation, who were not residents of Banda, were not willing to be posted. It is contended that the right of transfer was exercised by the opposite party in a colourable manner to victimise him for his trade-union activities and that the additional punishment or a new punishment could not be legally imposed upon him by the Chairman during the pendency of Reference No. NIT-1 of 1969 before this Tribunal. It is prayed that the order of his transfer should be set aside by the Tribunal and that it may further pass such order or orders as it may deem fit and proper.

The complaint has been strongly opposed by the Corporation. It may be noted here, that in the written reply which was submitted on its behalf, it was denied that the complainant was a protected workman under section 33 of the Act. So, when this case came up for hearing before the Tribunal on the 12th August, 1969, the learned Counsel for the complainant submitted a copy of the Jabalpur Divisional Manager's letter dated the 26th August 1968 to show that the complainant was a protected workman and that he was recognised as such by the Divisional Manager. On the production of this document, Shri Bhukhanwala, appearing for the Corporation, abandoned his objection to the effect that the complainant was not a protected workman. The parties are, therefore, no longer at issue on this point.

It is, however, contended on behalf of the Corporation that it had taken no action against the complainant to alter, to his prejudice, the conditions of service applicable to him immediately before the commencement of the proceedings before this Tribunal. It is also denied that the complainant's transfer was effected as a measure of punishment. It is pointed out that Regulation 20 of the (Staff) Regulations provided that an employee shall serve the Corporation in its business in such capacity and at such place as he may from time to time be directed; that according to section 23(2) of the Life Insurance Corporation Act every person employed by the Corporation was liable to serve anywhere in India; that transfer was not one of the penalties contemplated by Regulation 39 of the (Staff) Regulations and, therefore, it was not correct on the part of the complainant to contend that his transfer amounted to punishment. It is further urged that the Chairman had in his order made it clear that he was transferring the complainant not only in the interest of the Corporation but also in his own interest and so it was wrong for him to allege that the right of transfer was exercised in a colourable manner to victimise him for his trade-union activities.

The short question for determination before this Tribunal is, whether the order relating to the transfer of the complainant from Jabalpur to Banda was made by way of punishment in contravention of the provisions of section 33(3)(b) of the Industrial Disputes Act.

It may be observed at once that the transfer of an employee is not envisaged as a measure of punishment either by the (Staff) Regulations or by the Life Insurance Corporation Act. It may be pointed out that although seven types of penalties are provided under Regulation 39 of the (Staff) Regulations, transfer, from one place to another, or from one Department to another, does not find any mention therein.

On the contrary, transfer is contemplated as a normal condition of service for all employees of the Corporation both by the Life Insurance Corporation Act and the (Staff) Regulations.

Section 23, sub-section (2) of the Life Insurance Corporation Act, 1956 runs as follows:—

"Every person employed by the Corporation or whose services have been transferred to the Corporation under this Act shall be liable to serve anywhere in India."

Regulation 20, which deals with the scope of the employees' service, runs as below:—

"Unless in any case it be otherwise distinctly provided, the whole time of an employee shall be at the disposal of the Corporation and he shall serve the Corporation in its business in such capacity and at such place as he may from time to time be directed."

It is clear from the above provisions of law which govern the terms and conditions of service of the Corporation's employees that they are liable to serve the Corporation at all its offices in India. It may be added that even otherwise, transfer by an employer of his employees in cases where the employer has got his establishments at several places, is a normal incident of service unless there is a contract or understanding to the contrary.

Moreover, in the present case, the opposite party has produced before the Tribunal a document marked 'Exhibit A-1' dated 11th October 1968, wherein the complainant had, before his employment, given an undertaking, that if appointed, his services could be transferred to any of the offices in India and he had indicated Lucknow, Simla and Bombay as the three places in order of preference. Therefore, if the complainant's transfer were effected in normal circumstances, his complaint would have been liable to be thrown out at once.

It may, at the same time, be pointed out that although transfer is not contemplated as a punishment in the Life Insurance Corporation Act or the (Staff) Regulations, the scope of the language of section 33 of the Act is very wide and punishment by way of transfer cannot be said to fall outside its ambit if the transfer is effected not in the ordinary course of business but to victimise an employee for his trade-union activities either in express language or in colourable exercise of the power to transfer. The words "punish otherwise" appearing in that section are of wide amplitude and cover the entire field of punishment. In *Standard Vacuum Oil Co. Ltd., Calcutta and Their employees 1954 II LLJ 355*, it was observed as follows:—

"The existence of a power and its scope and exercise of it are entirely two different questions. Colourable exercise by the employer of his power to transfer a workman from one establishment of his at one place to another at a different place (eg. when the transfer of a workman is ordered with a view to victimise him) can always be the subject of an industrial dispute and can be investigated on a reference made under section 10 of the Industrial Disputes Act. It can also be the subject matter of a complaint under section 33A of the Act, if made without the previous permission of the Tribunal where proceedings concerning that workman are pending, for it would be regarded to be by way of punishment and so would amount to a contravention to Sec.33(b) of the Act."

I respectfully agree with this observation. The above view was also followed in *Anthony (K.T.) and Good Year Tyre and Rubber Co. of India (Private) Ltd., Bombay, 1958 I LLJ 377*. In *Bareilly Electric Supply Co. Ltd., vs. Sirajuddin and others, 1960 I LLJ 556*, a note of caution was, however, given by their Lordships of the Supreme Court to the effect that "the findings of *mala fides*" in a case of transfer or retransfer should be given by industrial tribunals "only after sufficient reliable evidence is led in support of it. Such a finding should not be made light-heartedly or in a casual manner....". Keeping these observations in mind, we have now to see whether the complainant's transfer from Jabalpur to Banda could be held to have been made by way of punishment.

The complainant has placed himself in the witness box and also examined two other witnesses, namely, Shri E. K. Srinivasan and Shri Jagdish Narain Khanna. The complainant has stated that in 1967 the General Secretary of the Jabalpur Division Insurance Employees' Union was charge-sheeted and suspended and six Record Clerks were transferred to places outside Jabalpur. One Higher Grade Assistant was reverted. The Union took up the case of the transferred and reverted employees and staged demonstrations, gate-meetings and rallies. The employees met the Divisional Manager in deputation on the 2nd January 1967. After that incident of 2nd January 1967, 18 persons were charge-sheeted. It has been urged by him that the allegation against him about the incident of 2nd January, 1967 was not well-founded, but this Tribunal cannot enter into the question whether he was rightly punished or not because the punishment was meted out to him long before Reference No. NIT-1 of 1969 was made to the Tribunal. Then, it is submitted by him that out of 18 persons who were charge-sheeted for the incident of the 2nd January, 1967, four were exonerated. Out of the remaining 14 employees, 7 expressed regrets and, therefore, a lenient action

was taken against them. The remaining 7, including the complainant, were given harsh punishments. It is pointed out by him that by down-grading by three steps in his time-scale he had suffered a running loss of Rs. 53 per month. He presented an appeal to obtain suitable relief, but did not get any success. He, therefore, presented a memorial before the Chairman to obtain some redress. His memorial was not only dismissed but he was further ordered to to be transferred. It is contended by him that although the Chairman had couched the order of his transfer in generous language by saying that the transfer was in his own interest, it was in fact meant to victimise him and those memorialists who had not offered apologies and to stifle their trade-union activities, by dispersing them from Jabalpur to distant places from where they could not exercise their influence. His transfer, far from being in his interest was clearly to his detriment and he was suffering heavily on that account. He says that he had built a house at Jabalpur after obtaining a loan from the Corporation. That loan remains unpaid. If he lets out that building he will have to pay 25 per cent of the rent realised by him from the tenants to the Corporation according to the terms of the loan. He would also have to pay 1 per cent interest more than what he would have otherwise to pay to the Life Insurance Corporation on account of his non-occupation of that house. He has to pay rent for another building at Banda. Thus, according to him his transfer has resulted in a recurring heavy financial loss to him. It is also stated that while effecting his transfer the Zonal Manager knowingly transferred him not only to a distant place, but also to a place which did not enjoy good reputation among the employees of the Corporation. It is pointed out that Banda was about 800 kilometres from Jabalpur. According to him, out of 15 employees who were posted at Banda only two, including himself, were from outside and the remaining 13 were residents of Banda and were taken by special recruitment from Banda because people from outside were not willing to be posted there. It is also pointed out that no post of Higher Grade Assistant was vacant at Banda when he was transferred. He has produced documents which are marked as Exhibits A, B, C, D, E and F to prove that people from outside were not willing to be posted at Banda and, therefore, a special recruitment out of residents from Banda only had to be held. His witnesses Shri E. K. Srinivasan and Shri Jagdish Narain Khanna have supported his version in material particulars.

Now, the perusal of Exhibit A shows that the Central Zone Insurance Employees' Federation had submitted a representation dated the 15th January 1960 to the Zonal Manager of the Corporation at Kanpur and one of the terms related to Banda Branch Office. Some of the grievances about that place related to water-supply, residential accommodation, sanitation, health and safety. It was requested that the employees of the Corporation working at Banda should be transferred to other places of their choice and the local employees be recruited to fill up such vacancies consequent upon such transfers. In reply to this memorandum, Exhibit B, it was observed by the Zonal Manager that the difficulties of life in Banda were highly exaggerated but the Corporation would consider all constructive suggestions for mitigating the difficulties of the employees. The said Federation of the employees again presented a memorandum, Exhibit D, dated the 15th October, 1961 in which the difficulties of the employees at Banda Branch were reiterated. It appears from the cutting of the 'National Herald' dated 17th December 1961, Exhibit F, that in view of the grievances of the employees, applications were invited only from persons belonging to Banda District for certain posts. The perusal of Exhibit E, which is a note containing the summary of the discussions held on the 4th April, 1963 between the Zonal Manager and the representatives of the Central Zone Insurance Employees' Federation, shows that the representatives thanked the Zonal Manager for arranging special recruitment test for recruiting local persons for manning the Banda Branch Office and they requested him that the case of one Assistant, who posted from outside might be considered for his transfer from that Branch. The Zonal Manager thereupon observed that early steps would be taken to transfer him, but if suitable local persons were not available for filling the vacancies, posting of persons from other stations could not be avoided.

One witness, namely, Shri M. P. Gupta, has been examined on behalf of the opposite party in rebuttal. He has stated that he was Assistant Manager in charge of Banda Branch Office from May 1964 to November 1968. According to him filtered water by pipelines was available at Banda. The housing accommodation at Banda was almost the same as in other places of the same dimensions; the climate of that place was good and healthy. There was a District hospital and all the medical facilities were available. For recreation also there were three cinema houses, each giving two regular shows. The roads were either tarred or were

R.C.C. Banda was a District Headquarters of Uttar Pradesh. It had branches of 4 banks, namely, State Bank, Central Bank, Allahabad Bank and Punjab National Bank. A post-Degree college and several schools including one which was meant exclusively for girls upto Intermediate was also there. Electricity was also available. It was well-connected both by roads and by rail. Thus, according to him Banda was not a bad place for posting.

It does appear from the evidence of this witness that Banda cannot be taken to be a bad place for posting, but at the same time, it is established by the evidence of the complainant, his witnesses and the documents Exhibits A, B, C, D, E and F as discussed above, that it did not enjoy good reputation among the employees of the Corporation at least till the year 1963. It is also clear from the evidence of opposite party's own witness Shri M. P. Gupta that although the post of a Higher Grade Assistant was provided at Banda it was not filled up before the complainant was posted there. The fact, which thus clearly emerges from the evidence, of both the parties may be summarised as follows:—

- (1) That the complainant was transferred to a place which was about 800 kilometres distant from his place of residence.
- (2) That although Banda could not be held to be a bad place, it did not enjoy good reputation among the employees of the Corporation.
- (3) That no Higher Grade Assistant was posted at Banda prior to his transfer.
- (4) That the complainant was put to further financial loss and hardship on account of his transfer. His evidence to the effect that he had built a house at Jabalpur by obtaining a loan from the Life Insurance Corporation, that his transfer not only deprived him from the comforts of living in his own house but also put him to financial loss as related by him stands un rebutted.

It may be observed here, that a mere transfer to a distant place, taken by itself, cannot in all circumstances be considered as a measure of punishment. Employees have to be transferred both to nearby and distant places according to the exigencies of service. Similarly, the mere fact that an employee is put to hardship of one kind or the other cannot be considered to be a penalty in all circumstances. If the transfer is effected in the normal course of business without any ulterior motive, or without an intent to punish the employee, then the transfer cannot be held as a penalty. In order to determine whether a particular transfer amounts to penalty it will have to be seen for what reasons, with what intent, and in what circumstances, it is effected by the employer. The intention of the employer may have to be gathered not only by the language of the order or the direction whereby the transfer is effected, but also by the surrounding circumstances. It, therefore, still remains to be seen whether the complainant's transfer, which resulted in financial loss and hardship for him, was effected with innocence or with the underlying intention of awarding him further punishment and victimising him for his trade-union activities. In other words, it will have to be determined whether this was done in colourable exercise of the power to transfer.

It is clear from the perusal of the order of the Chairman of the Corporation dated the 7th May 1969 that 7 employees of the Corporation, including the complainant, had presented separate memorials before him. All the 7 memorials were decided by him by one order. In paragraph 3 of the order it was observed by him as below:—

“the Zonal Manager imposed on these persons the **following penalties* on 6th June 1968:—

- | | | |
|----------------------|----|---|
| 1. Shri R. Y. Joshi | .. | Removal from service. |
| 2. Shri M. D. Bade | .. | Removal from service. |
| 3. Shri A. M. Muley | .. | Removal from service. |
| 4. Shri M. N. Dalvi | .. | Reduction to a lower stage by 3 steps and transfer. |
| 5. Shri B. K. Holey | .. | Reduction to a lower stage by 3 steps. |
| 6. Shri R. N. Tiwari | .. | Reduction to a lower stage by 3 steps. |
| 7. Shri N. K. Dubey | .. | Reduction to a lower stage by 3 steps.” |

*(Underlining is mine).

In paragraph 4, it was observed by him, that the memorialists had participated in unlawful activities and were rightly convicted of the charges framed against them. Then in paragraph 5, it was observed that the only question which remained to be considered was whether the punishments awarded were appropriate. Adverting to this question it was remarked by him that seven other employees, who were charge-sheeted had admitted their guilt, expressed regret, promised to behave properly in future and asked for lenient treatment, but the seven memorialists had done nothing of the kind and there were "no mitigating factors as in the case of employees who admitted the charges", and so "detrarrant action has to be taken, otherwise it would not be possible to maintain discipline in office". After making this observation, he thought that some reduction in the punishment could be legitimately made in the case of those who were ordered to be removed from service because they had put in long periods of service. He then proceeded to observe as below:—

"I take a sympathetic view and revise the orders as follows:—

- | | | |
|----------------------|----|---|
| 1. Shri R. Y. Joshi | .. | Reinstated and reduced in salary by 5 stages. |
| 2. Shri M. D. Bاده | .. | Reinstated and reduced in salary by 5 stages. |
| 3. Shri A. M. Muley | . | Reinstated and reduced in salary by 5 stages. |
| 4. Shri N. K. Dubey | | Reduced in salary by 2 stages. |
| 5. Shri M. N. Dalvi | .. | Penalty awarded remains as it is." |
| 6. Shri B. K. Holey | .. | |
| 7. Shri R. N. Tiwari | .. | |

Then, in paragraph 7, he proceeded to observe as follows:—

"I further order that it is not in the interest of the Corporation nor in the interest of these 7 persons, that they remain in their present place of postings. Shri M. N. Dalvi has already been transferred to Chandrapur B.O., Nagpur Division, and I order that the other 6 should also be transferred from their present place of posting to suitable places in the same Zone in different Divisions or in Branch Offices in that Division."

Now, on behalf of the complainant, it is urged on the basis of the words underlined above that while ordering transfer of the employees, the mind of the Chairman was working under an impression that transfer was also a measure of punishment. In other words, it is pointed out that in paragraph 3 of the order (reproduced above) it was noted by him in the case of Shri M. N. Dalvi that he was punished by reduction to a lower stage by "three steps and transfer". It is contended that the Chairman had taken Shri Dalvi's transfer as a penalty along with his reduction to a lower stage by 3 steps and hence he imposed the same penalty on the remaining six memorialists. Thus, according to the complainant's learned Advocate, although the Chairman had couched his order in paragraph 7 in innocent language by observing that he was transferring the memorialists in their own interest, he, in fact, meant to award them a penalty of transfer along with the other penalties and the real state of his mind could be read by the remark which he had made in paragraph 3 in the case of Shri M. N. Dalvi.

On the other hand, it is urged on behalf of the opposite party that the Chairman had ordered transfer of the six memorialists only to ensure smooth working in the office of the Corporation at Jabalpur and that this was apparent from the fact that he considered transfer not only in the interest of the Corporation, but also in the interest of these memorialists.

I have given my anxious consideration to the arguments advanced by both the parties in this behalf. I agree with the learned Counsel for the opposite party to the extent that the Chairman was apparently of the view that it was not in the interest of the Corporation that the memorialists should continue to remain in their place of postings and that their transfer would ensure smooth working so far as the office of the Corporation was concerned. But it is not clear from the order how the transfer was considered to be in the interests of the memorialists also. The incident for which the memorialists were charge-sheeted and punished had taken place on the 2nd January, 1967. A period of more than two years and four months had already elapsed by the time, the said order was passed. It does not appear from the perusal of the order if any further development had taken place and the memorialists had again indulged in some undesirable activity during this period. It is not contested that the complainant was continuing to serve at the

Jabalpur office because the Zonal Manager had not passed on 6th June, 1968 any order of his removal from service as in the case of Sarvashri R. Y. Joshi, M. D. Bado and A. M. Muley. If his continuance at Jabalpur was not against the interest of the Corporation or against his interest for all this period, how could his transfer be said to be in his interest after the lapse of such a long period? It cannot be denied that in paragraph 3 of his order the Chairman had observed while mentioning the penalty awarded to Shri M. N. Dalvi by the Zonal Manager that he was reduced to a lower stage by 3 steps and transfer. The complainant cannot be said to be altogether wrong in urging that the Chairman rightly or wrongly was under the impression that the transfer of Shri Dalvi was part of the punishment and it was given to him along with his reduction to a lower stage by three steps. He thought that it was proper to take similar action in the case of the remaining memorialists. In the case of Shri R. Y. Joshi, Shri M. D. Bado and Shri A. M. Muley who were ordered to be removed from service by the Zonal Manager and in whose case the Chairman had taken sympathetic view and given them lesser penalty the position might be different. While ordering them to be reinstated and reduced in salary by five steps he could order their transfer even by way of punishment because the total punishment was less than the penalty imposed on them, by the Zonal Manager. In the case of the complainant however, no favourable order was passed, the penalty already awarded to him was maintained and his memorial was virtually dismissed. The further order of his transfer in such circumstances only amounted to an enhancement of penalty.

From the employer's viewpoint the transfer of turbulent employees may be considered desirable by him for ensuring smooth working in the establishment, but from the employee's angle of vision such transfer cannot be assumed to be in his interest in all circumstances. If the employee's interest is to be taken into consideration, in a given case, he should be consulted before his transfer, because he is in the best position to know whether transfer would be of any help to him. In the present case also, it should not have been assumed that the transfer would be in the interest of the complainant. So, the argument to the effect that since the transfer was effected in the complainant's own interest, it did not amount to punishment, is altogether untenable. To my mind, it is clear that his transfer was not effected in the ordinary course of business and the step was taken on account of the occurrence of 2nd January, 1967. The complainant was, however, already punished by the Zonal Manager for his participation in the said event and he had approached the Chairman for some relief because he was unsuccessful in his appeal. If his memorial was not worthy of consideration, it could be dismissed. But the further order of his transfer could not be passed except as an enhanced penalty. As already discussed above, it is well-settled that if an employee is victimised by the employer by way of transfer, such transfer amounts to punishment. If the employer tries to justify his action on the plea that it was effected to ensure smooth working in his establishment it would be a very weak and unsustainable defence. The perusal of the impugned order itself shows that the transfer of the complainant was ordered on account of his participation in the occurrence that took place on the 2nd January, 1967. It also shows that this step was taken against all the memorialists who had shown no penitence. This wholesale transfer has further provided a good handle to the complainant to argue that this was done with the avowed object of dispersing the members of this group to distant places so that they may not be able to get together again for their trade-union activities.

The learned Counsel for the opposite party has urged that paragraph 4 of the impugned order should not be considered by the Tribunal as a part and parcel of the decision of the memorial which was submitted to the Chairman. According to him, such order could be passed separately by the Chairman and simply because it was passed along with the decision of the memorials, it should not be taken to have been made to punish the memorialists including the complainant. In my opinion, there is not much substance in this argument also. Even if the transfers order were passed separately, it could be open to the complainant to show that his transfer was ordered to victimise him and give him enhanced penalty. The only difference in that case would have been that the complainant would have been put to hard proof to show that his transfer was effected on account of the occurrence of the 2nd January, 1967 and not in the normal course of the business. Since this order of transfer was passed while deciding the memorials, it has become easier for him to bring out its real nature. To my mind paragraph 7 cannot be read without the context in which it appears. It would not be just and fair to do so. Having considered the matter from a detached angle, I think that the complainant's transfer over and above the punishment which was already awarded to him and which was maintained by the impugned order, did amount to additional or enhancement of punishment.

It may be further observed that the Zonal Manager who carried out the orders of the Chairman also appears to have treated it as an order giving enhanced penalty to the complainant because he was knowingly transferred to a place which was about 800 kilometres distant from Jabalpur and which did not enjoy good reputation amongst the employees of the Corporation. The intention to punish him is further betrayed by the fact that no Higher Grade Assistant was posted at Banda before the complainant's transfer to that place and it was the complainant who was transferred there for the first time. The opposite party had no authority to award a fresh or additional or enhanced punishment to the complainant without the express permission of the Tribunal during the pendency of Reference No. NIT-1 of 1959. This is a clear contravention of the provisions of section 33(3)(b) of the Industrial Disputes Act and, therefore, the complaint under section 33A was well-founded.

It may be further pointed out that Regulation 46 of the (Staff) Regulation which deals with consideration of appeals lays down that the appellate authority shall not impose an enhanced penalty unless the appellant is afforded an opportunity of making representation against it. It is contended by the complainant's learned Counsel that the Chairman had no power under the law to enhance the penalty while dealing with a memorial. On the other hand, it is urged on behalf of the opposite party that the Chairman being higher authority than the appellate authority the powers of the appellate authority were inherent in him. Assuming, without deciding, that the Chairman while dealing with the memorial could exercise the powers of the appellate authority, it cannot be accepted that he could enhance the punishment without giving proper opportunity of hearing to the memorialist as contemplated by Regulation 46. The impugned order of the Chairman does not show if the complainant was afforded any opportunity to show cause against his transfer before it was ordered. The punishment awarded to the complainant was thus illegal even according to the (Staff) Regulations.

To sum up the case, it is established that the complainant's transfer from Jabalpur to Banda was tantamount to additional or enhanced penalty and the opposite party having contravened the provisions of section 33(3)(b) of the Industrial Disputes Act, the complaint under section 33A is fit to be allowed.

The complaint is allowed accordingly. The order relating to the complainant's transfer is hereby cancelled and the opposite party is directed to post him back to Jabalpur. The complainant will get Rs. 100 for costs from the opposite party.

[No. 40/9/70-L.R.-I.]

New Delhi, the 20th March 1970

S O. 1145.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Madras in the industrial dispute between the employers in relation to the Punjab National Bank Limited and their workmen, which was received by the Central Government on the 12th March, 1970

BEFORE THE INDUSTRIAL TRIBUNAL, MADRAS

Friday the 20th day of February 1970

PRESENT:

Thiru S. Swamikkannu, B.Sc., M.L., Industrial Tribunal, Madras

INDUSTRIAL DISPUTE No. 34 of 1969

(In the matter of the dispute for adjudication U/s. 10(1)(d) of the I.D. Act 1947 between the workmen and the management of Punjab National Bank Ltd., Madras-1).

BETWEEN

The General Secretary, Punjab National Bank Staff Union, No. 135, Moore Street, Madras-3.

AND

The District Manager, Punjab National Bank Ltd., Dare House Extension, 2/1, First Line Beach, Madras-1.

REFERENCE

Order No. 23/133/68/LR III, dated 7th July, 1969 of the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) Government of India, New Delhi.

This dispute coming on this day for final disposal in the presence of Thiru G. Kapaleswaran, General Secretary of the Union and of Thiru S. R. Adwarpalkar, Labour Adviser, Indian Banks' Association, Bombay for the Bank and the General Secretary of the Union having filed an application for withdrawing the dispute and allowing the same, this Tribunal made the following.

AWARD

This is an Industrial dispute referred by the Central Government in its order dated 7th July, 1969 for adjudicating a dispute between the Punjab National Bank Limited and their workmen in respect of the matter given in the schedule to the reference.

2. The claimants represented by the Punjab National Bank Staff Union, Madras-1 filed their claim statement, to which the management have filed their counter, submitting that the claimants are not entitled to any relief.

3. When the matter was taken up today for hearing, the General Secretary of the Union filed an application for withdrawing his claim. The petition has been allowed. The claim is dismissed as withdrawn and not pressed. An award is passed accordingly.

(Sd.) S. SWAMIKANNU,
Industrial Tribunal.

List of Witnesses Examined for Both Sides:

None.

List of Documents Marked for Both Sides:

Nil.

[No. 23/133/68/LRIII.]

S.O. 1146.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Delhi in the industrial dispute between the employers in relation to the Indian Bank Limited and their workmen, which was received by the Central Government on the 12th March, 1970.

BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL: DELHI

PRESENT:

Shri R. K. Baweja, Central Government Industrial Tribunal, Delhi.

12th February, 1970.

23rd Magh, 1891(S).

I.D. No. 3 of 1969

The Agent, Indian Bank Ltd., G-41, Con. Circus, New Delhi,

AND

Their workmen as represented by the Indian Bank Workers Organisation, 898, Nai Sarak, Chandni Chowk, Delhi.

Shri Shanker Narayan—for the management.

Shri G. D. Gupta—for the workmen.

AWARD

The Central Government being of opinion that an industrial dispute existed between the employers in relation to the Indian Bank Ltd. and their workmen, *vide* its order No. 23/23/69/LRIII dated the 23rd April, 1969, referred to this Tribunal under section 10(d) of the Industrial Disputes Act, 1947 (hereinafter to be referred as Act), for adjudication in respect of the matter specified in the schedule annexed thereto. The schedule is extracted below:—

“Whether the action of the management of the Indian Bank Limited, New Delhi in giving officiating chances as Special Assistant/Officer to Shri V. G. Kini, Clerk supersending the claims of Shri N. Chidambaram Clerk-cum-Godown keeper was justified? If not, to what relief is the workman entitled?”

2. The Indian Bank Workers Organisation and Delhi State Bank Employees Association (hereinafter to be referred as Association), on behalf of the workers as well as the employer filed their statements of claim. Shri N. Chidambaram was appointed as clerk-cum-godown keeper from 13th May, 1955 by the Bank at Delhi and he is admittedly a matriculate. It is alleged on his behalf that the bank started giving to Shri V. G. Kini officiating chances as supervisor in leave vacancies or against temporary vacancies w.e.f. May 1966 ignoring the claims of the workman, Shri N. Chidambaram. According to the association, Kini for the first time was appointed by the bank as temporary clerk in 8th January, 1955 and his temporary appointment came to an end on 7th July, 1955. On 9th July, 1955 he was again appointed afresh as a clerk. Shri Kini was non-matriculate and was also junior to Chidambaram. The concerned workman approached the management several times bringing to its notice that giving of officiating chances as supervisor to Kini, who was junior to him, was improper and illegal, but no heed was paid. In this connection, reference was also made to the settlement dated the 3rd July, 1967 arrived at between the bank and the workmen, as represented by Federation of the Indian Bank Employees Union in respect of recruitment of officers and promotion policy concerning clerical staff. It was provided therein that for the purpose of promotion, seniority was to be determined on the basis of the length of service, educational qualifications and that the minimum qualification for promotion without test for officers cadre was S.S.L.C. certificate. According to the association, the bank in utter disregard of the settlement for promotion of clerical staff to officer cadre, gave officiating chances to a junior clerk who was non-matriculate and never passed the test. It was also stated that this act of the bank in giving officiating chances of promotion to Kini was against the provisions of para 529 and 516 of the Shastry award. It was, therefore, prayed that the bank be directed to pay supervisory allowance from May 1966 to 30th July 1966 and other periods from which Kini officiated against the superior post and that in future all officiating chances to supervisory cadre be allowed to Chidambaram instead of Shri Kini.

3. The bank admitted that Shri Kini was non-matriculate and joined the bank on 8th January, 1955. It was, however, stated that subsequently it was revealed that Shri Kini had worked on the 8th July, 1955 and so he was confirmed by the bank from 1st August, 1955 and as Shri Chidambaram was appointed only on 13th May, 1955 and was confirmed on 13th November, 1955, the latter was junior to Kini. Regarding officiating promotion of Shri Kini, it was stated that he was entrusted, whenever required temporarily, with certain work for which period he was paid under the provisions of the award and that he was never appointed as special assistant nor was he asked to officiate as such. This according to the bank was within its right to entrust work to its employees. It was further averred that the dispute was not an industrial dispute.

4. The following two issues arose out of the above pleadings of the parties:—

- (1) Whether the dispute between the parties is not an Industrial Dispute?
- (2) As in the schedule.

Issue No. 1:

5. The learned representative of the bank did not contest this issue and obviously the dispute which has been referred for adjudication to this Tribunal is industrial dispute. The allegation is that the senior employee was superseded and the junior one was promoted to officiate in a higher scale for certain periods. This being so, the issue is decided against the bank.

Issue No. 2(As in the Schedule):

6. The facts of this dispute are more or less admitted. The concerned workman was appointed in the bank as a clerk on the 13th May, 1955 whereas Shri V. G. Kini got a temporary post as a clerk vide order dated 7th January, 1955 Ext. M/1 and took over on the 8th January, 1955. Shri Kini had represented to the bank at that time that he was matriculate and undertook to produce a certificate of the Madras University to that effect. Later on it transpired that he had not passed his matriculation examination vide Ext. M/13. In a letter dated 8th July, 1955, Ext. M/9, the Agent of the New Delhi branch wrote to the head office Madras that Kini had completed six months as a temporary hand on the 7th July, 1955 and that he would be re-appointed with a break for the 8th July, 1955 on the following day. So this letter supports the version of the concerned workman that Kini had a break of service for one day and was appointed afresh on the 9th July, 1955. In a letter dated the 2nd August, 1955, the head office asked the local branch manager to discontinue with the services of Shri Kini vide Ext. M/13. To this the agent did not agree and sent his reply on the 3rd August, 1955 in which he stated that on account

of increase of work the services of Kini could not be dispensed with *vide* Ext. M/14. Shri Kini was confirmed by the head office by an order dated the 8th August, 1955 w.e.f. 1st August, 1955 *vide* Ext. M/15. For the purpose of annual increments, a letter was addressed by the New Delhi Branch to the head office on the 19th November, 1957, *vide* Ext. M/16, in which the date of appointment of Shri Kini was shown as 8th January, 1955 and Chidambaram as 13th June, 1955. The Head Office sent its reply dated 26th November, 1957 that Kini was appointed on 8th February, 1955 and not on 8th January, 1955 according to the entries in its register and so it asked the local branch office to verify the facts. The reply sent was dated 28th November, 1957 in which this information was supplied. Then the head office brought it to the notice of the branch office that Kini had been appointed afresh on the 9th July, 1966 with a break for one day and enquired as to how it was that his date of appointment was shown as 9th January, 1955 *vide* Ext. M/19. The agent replied in his letter dated the 19th December, 1957 that the record showed that Kini had worked on the 8th January, and had been paid full wages for the month of July, 1955 and that his appointment may be treated as 8th January, 1955. It was on the basis of this correspondence that Kini was deemed to have been appointed w.e.f. 8th January, 1955. To me it appears that in fact Kini continued to work upto 8th July, 1955 and as he had completed six months by that date, the management wanted to show one day break so that he might not claim any benefits. This unfair labour practice is usually resorted to by the employers. When he wrote that he worked on the 8th July, 1955 and had been paid for that, the agent realised the mistake and then wrote to the head office that the service of Kini was continuous without any break. I may also add here that even the association of the employees in its various communications to the management and the conciliation officer while making representations regarding annual increments due to the members, stated that Kini's date of appointment was 8th January and not 8th July, 1955. Ext. M/31 is a letter by the conciliation officer, Government of India, to the Secretary, of the Bank in which he mentioned that the Indian Bank Employees Union had represented that certain persons, who earned increments on the dates noted against each had not been granted the same. Therein the name of Kini is mentioned and his date of appointment is stated to be 8th January, 1957. So if Kini had been appointed afresh, on the 9th of July, 1955 how could the union write that the date of his increment fell 8th January, 1957. M/25 is another letter from the agent of the Delhi branch to the head office in which it was noted that the record showed that Kini had attended office without break. The head office informed the local branch office that he might be allowed increment as if there was no break in service *vide* Ext. M/29. The conciliation officer was also informed by the head office that Kini had been allowed increment from due date *vide* Ext. M/28. From all this correspondence it is obvious that break in service of Kini was shown, but subsequently when it was known that he had worked on 8th July, 55 had drawn wages for that day, the bank rectified that mistake. Even the association represented to the conciliation officer that Kini was not being paid his increment and that his date of appointment was in January, 1955. In 1955 there was no controversy between Kini and the concerned workman and so it cannot be said that the bank in order to injure the interest of the concerned workman did any favour to Kini by condoning the break. This being so, Kini was not junior to the concerned workman. It was admitted by the parties that the seniority was to be determined not from the date of confirmation but from the date of joining the service. If Kini was senior to Chidambaram then there was no infringement of the provisions of para 529 of the Shastri award. In the said award, it is mentioned that when a person senior in service is superseded it should be for good and cogent reasons. In the present case there was no supersession of the senior man and so the provisions of the award were not violated.

7. My attention was, however, drawn by the learned representative of the workman to a settlement dated 3rd July, 1967, between the Indian Bank Ltd. Madras and its workmen, as represented by the federation of the bank employees. It related to the promotion of the clerical staff to officer's cadre. It was provided therein that the promotion would be made on the basis of seniority in the following manner:—

1. For the purpose of promotion, seniority shall be determined on the basis of length service and educational qualifications as under:—
 - (a) One point for every completed one year of service.
 - (b) Two points for graduates, and/or N.D. Com. holders.
 - (c) One point for C.A.LLB. or CAIB Part I.
 - (d) Two points for C.A.II.B. or CAIB Part II

2. The minimum qualification for promotion without test for officers cadre shall be S.S.L.C. certificate.
3. In respect of persons who did not possess the minimum educational qualifications as stated above, they shall be eligible for promotion only on their obtaining a minimum of 40 per cent marks in written test based on the book of instructions.
4. Any person who fails to obtain in the written test the minimum marks prescribed shall not be eligible for promotion in future.

8. The period of settlement was three years from the 3rd of July, 1967 and it is still in operation. Shri Kini was a non-matriculate and though he was senior to the concerned workman he could not be promoted to the supervisor's grade till he had passed the written test as provided in the settlement. On that ground, I feel that Shri Kini could not be entrusted with the duty of a supervisor in preference to the concerned workman since he had not passed the test as required under the terms of the settlement. It was contended on behalf of the bank that Shri Kini was never appointed as a supervisor and that he was only asked to carry on the duties attached to that post in addition to his own duties. Entrustment of duties of a superior post which carries certain amounts as allowances, in my view, does amount to temporary promotion. So, these chances should not have been given to Shri Kini, but to Shri N. Chidambaram, the concerned workman. The action of the bank was not, therefore, justified and the reference should be answered in favour of the concerned workman. Regarding relief it is directed that in future whenever officiating chance for the special assistant/officer or supervisor arises the concerned workman should be given preference to Shri Kini till the latter passes the test provided in the agreement. The concerned workman will also be entitled to the allowances which he should have earned had he been entrusted with the duty as supervisor during the period when Shri Kini was entrusted with the duty of supervisor in preference to the concerned workman. The award is made accordingly.

(Eight pages).

12th February, 1970.

(Sd.) R. K. PAWEJA.

Central Govt. Industrial Tribunal, Delhi.

[No. 23/23/69/LRIII.]

ORDER

New Delhi, the 13th March 1970

S.O. 1147.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Punjab National Bank and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Central Government Industrial Tribunal, (No. 1) Dhanbad, constituted under section 7A of the said Act.

SCHEDULE

- (1) Whether the management of Punjab National Bank have properly fixed the pay and allowance of the employees of former Universal Bank of India Limited after its merger with the Punjab National Bank on the 5th August, 1967?
- (2) Whether the terms and conditions of service applicable to the employees of the former Universal Bank of India Limited after its merger with the Punjab National Bank are not in any way less favourable to the said employees than those applicable to them immediately before the merger?
- (3) To what relief, if any, are the said employees entitled?

[No. 23/97/69/LRIII.]

S. S. SAHASRANAMAN, Under Secy.

(Department of Labour and Employment)

New Delhi, the 13th March 1970

S.O. 1148.—The following draft of certain scheme further to amend the Visakhapatnam Unregistered Dock Workers (Regulation of Employment) Scheme, 1968, which the Central Government proposes to make in exercise of the powers conferred by sub-section (1) of section 4 of the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948), is published as required by the said sub-section for the information of all persons likely to be affected thereby; and notice is hereby given that the said draft will be taken into consideration on or after the 25th April, 1969.

Any objections or suggestions which may be received from any person with respect to the said draft before the date so specified will be taken into consideration by the Central Government.

DRAFT SCHEME

1. This Scheme may be called the Visakhapatnam Unregistered Dock Workers (Regulation of Employment) Amendment, Scheme, 1970.

2. In clause 17 of the Visakhapatnam Unregistered Dock Workers (Regulation of Employment) Scheme, 1968 (hereinafter referred to as the said Scheme) in sub-clause (2), under the heading "Category C", after item "(5) Sampling Workers", the following items shall be added, namely:—

"(6) Deck sweepers/hatch cleaners.

(7) Gunny Clerks."

3. In the Schedule to the said Scheme, under heading "Category C", after item "(5) Sampling Workers", the following items shall be added, namely:—

"(6) Deck sweepers/hatch cleaners.

(7) Gunny Clerks."

[No. 55(1)/70-Fac. II.]

K. D. HAJELA, Under Secy.

(Department of Labour and Employment)

New Delhi, the 16th March 1970

S.O. 1149.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal (No. 1) Dhanbad, in the industrial dispute between the employers in relation to the Katras Choitudih Colliery of Messrs Bird and Company Limited, Post Office Sijua, District Dhanbad and their workmen, which was received by the Central Government on the 5th March, 1970.

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 1),
DHANBAD**

In the matter of a reference under section 10(1)(d) of the Industrial Disputes Act, 1947.

REFERENCE No. 53 OF 1968

PARTIES:

Employers in relation to the Katras Choitudih Colliery of Messrs Bird and Company Limited, P.O. Sijua, District Dhanbad.

AND

Their Workmen

PRESENT:

Shri Ram Asray Misra,—Presiding Officer.

APPEARANCES:

For the Employers—Shri D. Narsingh, Advocate.

For the Workman—None.

STATE: Bihar.

INDUSTRY: Coal

Dhanbad, dated, the 5th March, 1970

AWARD

Shri Chandra Dusadh was a Coal Cutter in the Katras Choitudih Colliery of M/S. Bird & Co. Ltd., P.O. Katras, District Dhanbad, for a large number of years. The employers dismissed him from service with effect from 13th March, 1968, whereupon the General Secretary, Mine Mazdoor Union (HMS), P.O. Sijua, District Dhanbad, of which Shri Chandra Dusadh was a member, raised an industrial dispute for his benefit. The matter was taken in conciliation proceedings before the Assistant Labour Commissioner (Central) (Verification), Dhanbad, who failed to resolve the dispute. The Central Government has, therefore, in exercise of its powers under section 10(1)(d) of the Industrial Disputes Act, 1947, by its order No. 2/85/68-LRII, dated 5th July 1968, referred it for adjudication to this Tribunal. The precise nature of the controversy upon which the Tribunal is called upon to submit its award is disclosed in the schedule, quoted below, which is a part of the order of reference.

SCHEDULE

"Whether the management of Katras Choitudih Colliery of Messrs Bird and Company Limited, Post Office Sijua, Dhanbad was justified in dismissing Shri Chandra Dusadh Coal Cutter, with effect from the 13th March, 1968? If not, to what relief is the workman entitled?"

2. On receipt of the reference, the usual notice required by Rule 10B(1) and (2) of the Industrial Disputes (Central) Rules, 1957 was issued to the employers and the Mine Mazdoor Union, Sijua, calling upon them to file their written statements in support of their respective cases. The employers filed their written statement on 11th December 1968 but in spite of service, the Mine Mazdoor Union did not file any written statement.

3. After the filing of the written statement by the employers, the case was adjourned on one or two dates but without any actual proceedings. Eventually it was fixed for hearing on 2nd March 1970 and notice was served on the General Secretary, Mine Mazdoor Union, P.O. Sijua, Dist. Dhanbad on 16th January 1970 for that date again *vide* the postal acknowledgement receipt on record, but still no one appeared to prosecute the workman's case. In the circumstances the proceedings had to be taken in the absence of the workman's party.

4. On behalf of the employers Shri D. Narsingh, Advocate, examined one witness namely Shri S. K. Acharya, M.W. 1 who proved documents Exts. M-1 to M-9.

5. On reading Exts. M-1 to M-9 and the statement of Shri S. K. Acharya, M.W. 1, together, I find the following facts proved beyond any doubt:—

- (a) That on 12th January 1968 while Shri Chandra Dusadh was on duty in the second shift he was asked by the Mining Sirdar Sri Sibcharan Nunia to load a tub properly because it was not fully filled up, whereupon the former not only disobeyed the order but misbehaved with him and tried to assault him.
- (b) That since the aforesaid action of Shri Chandra Dusadh amounted to disorderly conduct, he was served with the charge sheet Ext. M.6 and an enquiry was held against him in respect of it by one Shri S. K. Singh, an officer of the colliery.
- (c) That Shri S. K. Singh found the above mentioned charge proved against Shri Chandra Dusadh and accepting his findings the management of the colliery decided to impose upon Shri Chandra Dusadh a punishment of suspension of 4 (four) days from service, through their letter No. WO/386, dated 22nd February 1968 addressed to him. That before, however, the management's decision could be communicated to Shri Chandra Dusadh he met Shri S. K. Singh at about 5 P.M. on 16th February 1968 and abused and threatened him with physical violence, saying that if anything happened to him as a result of the enquiry he would break his (Shri S. K. Singh's) bones. The actual words used by Shri Chandra Dusadh were "Agar Hamare Enquiry Me Kuch Ho Geya to Ham Tumhara Haddi Tor Dega".
- (d) That Shri S. K. Singh brought this unruly misconduct of Shri Chandra Dusadh against him to the notice of his superiors and a fresh chargesheet Ext. MI was issued to Shri Chandra Dusadh in respect of it.
- (e) That an enquiry into the latter charge was held against Shri Chandra Dusadh by Shri S. K. Acharya, M.W.1, another officer of the management and as a result of the findings recorded by Shri Acharya the

management decided and actually dismissed Shri Chandra Dusadh from service with effect from 13th March, 1968.

- (f) That the findings recorded by Shri Acharya, M.W.I. are based on good and reliable evidence, including the statements of several eye-witnesses, who were present when Shri Shandra Dusadh had threatened Shri S. K. Singh with dire-consequences.
- (g) That the enquiry into the alleged charge was held in the presence and in the bearing of Chandra Dusadh and he was allowed full opportunity to cross-examine the witnesses and to examine defence evidence of his choice. In fact Shri Chandra Dusadh did examine only himself in support of his defence.
- (h) That the enquiry conducted by Shri Acharya was fair and does not suffer from any illegality or for non-observance of any of the principles of natural justice.

6. On the principle held in 1969(II) LLJ 377 that, having once held that the enquiry was fair, the Tribunal has no jurisdiction to go into the correctness of findings of the enquiry officer except in cases where it is able to hold that they are perverse or unreasonable. I have already held that the enquiry was conducted in a fair manner and the findings recorded by Shri Acharya are fully justified from the evidence on record and as such there is no question of their being perverse or unreasonable. I therefore, accept his findings and hold that the management committed no impropriety or illegality in dismissing Shri Chandra Dusadh from service.

7. In the result my award is that the order of the management of Katras Choitudih Colliery of M/S. Bird & Co., P.O. Katrasgarh, Dist. Dhambad, in dismissing Shri Chandra Dusadh, Coal Cutter from their service from 13th March, 1968 was fully justified and the workman is not entitled to any relief. Since the workman or his union has not put in appearance in the case I make no order as to costs.

8. Let a copy of this award be submitted to the Central Government under section 15 of the Industrial Disputes Act.

(Sd.) RAM ASREY MISRA,
Presiding Officer.

[No. 2/85/68-LR.II.]

New Delhi, the 18th March 1970

S.O. 1150.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Jabalpur in the industrial dispute between the employers in relation to the management of Sagmania Limestone Mines of Satna Cement Works, Satna (M.P.) and their workmen, which was received by the Central Government on the 7th March, 1970.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR

Camp at Allahabad.

Dated, February 26, 1970

PRESENT:

Shri G. C. Agarwala, Presiding Officer.

CASE REF. No. CGIT/LC(R)(37) OF 1969

Employers in relation to the management of Sagmania Limestone Mines of Satna Cement Works, Satna (M.P.).

Versus

Their workmen represented through Satna Cement Quarry Kamgar Union, Sagmania (Satna) Madhya Pradesh.

APPEARANCES:

For employers—S/Sri B. K. Srivastava, Personnel Officer & M. L. Mathur, Labour Officer;

For workmen—Sri K. M. Pillai, General Secretary of the Union.

INDUSTRY: Limestone Mine.

DISTRICT: Satna (M.P.).

AWARD

By Notification No. 36(10)/69-LRIV, dated the 25th September 1969, the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) Government of India, referred the following matter of dispute as stated in the schedule to the order of reference to this Tribunal, for adjudication:

Matter of Dispute

Whether the dismissal of Shri Ram Nath, Compressor Helper of Sagmania Limestone Mines is legal and justified? If not, to what relief is he entitled?

2. The admitted facts are that from the house of the workman concerned, Sri Ram Nath, Compressor Helper, a wooden sleeper used in the trolley lines of the company was recovered on 10th January, 1969 by Sri Ranjit Singh, Assistant Security Officer. The sleeper was lying in the open compound of Sri Ram Nath which was fenced by barbed wire. The Storekeeper made a report (Ex. E/2) on 10th January, 1969 to the Quarry Manager that four sleepers were short in stock. This report was sent to the Security Officer who made a spot enquiry and then questioned Sri Ram Nath about it in the night at about 9-20 P.M. as would appear from the recovery memo (Ex. E/3). The sleeper was removed to the house of Hawaldar, Rampal Singh, and kept there. On the basis of this recovery Sri Ram Nath was charge-sheeted on 15th January, 1969 for having stolen the sleeper of the Company. This was issued after the Mines Manager, Sri S. V. Pai (E.W. 2) returned from leave on 13th January, 1969. In his absence the Assistant Mines Manager, Sri D. S. Rao, was officiating. It appears that there was some evidence that not only Sri Ram Nath but a few others were concerned in the theft of the sleeper and these according to the evidence produced in the domestic enquiry and before this Tribunal were Hari Nath Singh, Rajdeo Gupta, Rajdeo Nonia and Sambhu Gond. The case of the management was that these five persons were seen carrying away three sleepers at about 10 P.M. on the night between 9/10th January, 1969. Sri Ram Nath and Sri Hari Nath Singh were carrying one sleeper and other three were carrying two sleepers one above the other. Out of the four others, it appears that only two others viz. Rajdeo Nonia and Hari Nath Singh were charge-sheeted and their charge-sheets are also dated 15th January, 1969. These have been filed as Ex. W/3 and W/4. Sri Ram Nath was suspended from 17th January, 1969 but the other two Rajdeo Nonia and Hari Nath Singh were not suspended. There is no explanation why the remaining two Rajdeo Gupta and Sambhu Gond were not charge-sheeted at all. No domestic enquiry was proceeded with against Hari Nath Singh and Rajdeo Nonia and on behalf of the management the reason for not doing this is said to be that no sleepers were recovered from their houses. Against Sri Ram Nath after he submitted explanation on charge-sheet, an enquiry was commenced by Sri B. K. Srivastava, Personnel Officer, on 20th January, 1969. One Sri Kedar Singh was allowed to assist the workman during the enquiry. After examining one witness Angad Singh and another Rampal Singh on 20th January, 1969, the enquiry was adjourned without giving a specific date and was resumed on 31st January, 1969 when other witnesses namely Bansidhar Singh and Jagan on fact were examined. Sri Ranjit Singh was examined on 1st February, 1969 and the Security Officer Capt. Ram Singh on 3rd February, 1969. Murlidhar Singh and Parmatma Singh were two other witnesses examined on 4th February, 1969 as also one Narendra Singh. Sri Ram Nath examined himself and produced one Moti on 5th February, 1969. The enquiry thereafter closed and the Enquiry Officer made a report (Ex. E/14). There is no date on the report but in his evidence Sri B. K. Srivastava, Enquiry Officer, has stated that this was an oversight and the date should be 7th February, 1969 as mentioned in the list of documents. The Mines Manager accepted the findings of the Enquiry Officer that the charge was proved and passed an order of dismissal on 8th February, 1969. It may be mentioned that because of the pendency of an Industrial dispute Case Ref. No. CGIT/LC(R)(56)/68 the management filed an application for approval under Sec. 33(2)(b) I.D. Act which was dismissed on preliminary point by an order dated 24th May, 1969 on the ground that Sri Ram Nath had failed to prove that he was a concerned workman in the reference in question. An Industrial dispute, however, was subsequently raised by the Union, Satna Cement Quarry Kamgar Union, which in due course has resulted in this reference.

3. On pleadings of the parties the following additional issues were framed as points of controversy:—

Addl. Issues

- 1 What is the effect of rejection of application for approval under Sec. 33(2)(b) I.D. Act?

2. Was there any bonafide and proper enquiry conforming to principles of natural justice held?
3. Was the finding of Enquiry Officer perverse?
4. Was the enquiry in accordance with the procedure prescribed under the Standing Orders?
5. Whether the management was guilty of unfair labour practice and victimisation?
6. Was the punishment excessive and unconscionable?
7. Was the workmen concerned Sri Ramnath guilty of the offence for which he had been charge-sheeted and punished?

FINDINGS:

Issue No. 1.—The application for approval under Sec. 33(2)(b) of the Act was rejected on the ground that Sri Ram Nath had not been proved as a concerned workman in the reference in Case Ref. No. CGIT/LC(R)(56)/68. This was rejected on a technical point and was not a determination on merits. Even if there had been such a determination, a decision recorded under Sec. 33(2)(b) does not operate as res judicata, this being settled law on the question vide *G. McKenzie & Co. Vs. Their workmen* A.I.R. 1959(SC)389.

Issue No. 2.—Before the services of an employee can be terminated by way of punitive action it is now well settled that this must be preceded by a bona fide and a proper enquiry conforming to principles of natural justice. There are, however, inherent weaknesses in this case which lead to the inevitable conclusion that the enquiry was far from bona fide and did not conform to principles of natural justice. The first significant point to note is that the sleeper was admittedly recovered on 10th January, 1969, but the charge-sheet was issued on 15th January, 1969 in which the date of theft was mentioned as 10th January, 1969 and the recovery date was stated as 11th January, 1969. This evidently was a mistake as the sleeper was recovered on 10th January, 1969 and the alleged theft had taken place on 9th January, 1969. During this period of five days management must naturally have had the evidence of eye witnesses who claimed to have seen the sleepers being removed. It is, however, significant to find that no mention of the fact is mentioned in the charge-sheet. All that is stated vaguely is that on 10th January, 1969 between 9 & 10 P.M. he along with Harinath Singh and others had stolen certain sleepers and one of which was found from his house. There is no mention whatsoever about the report of Angad Singh dated 10th January, 1969 (Ex. E/3) or about the fact that others had seen him taking the sleeper. As a matter of fact, the report of Angad Singh appears to be a highly doubtful document. It was not produced during the enquiry held before the Enquiry Officer and only during proceedings before this Tribunal original report was obtained. It is peculiar to find the report is duplicate as Ex. E/18 and E/19. Angad Singh when questioned stated that he signed on only one document as his report but later on he corrected himself and stated that he did not remember if he signed in one or two papers. He did not remember the name of the scribe. It was then that the management was directed to file both the original and the carbon copies. When confronted with them, he admitted his signatures. If Angad Singh had seen five persons carrying away three sleepers of the company there was hardly any reason for not mentioning the names of all the five and the fact that more than one sleeper were being taken away by them. The workman was purposely kept in dark as no mention about Angad Singh's report had been made in the charge-sheet.

The second noteworthy feature in the case is that the Enquiry Officer seems to have identified himself with the management and was incompetent to hold an enquiry. It was admitted by him that before charge-sheet was issued to Rajdeo Nonla, the Manager discussed the matter with him and when confronted with the charge-sheet of Rajdeo Nonla which bore his initials over the securing out of suspension part, he admitted that some of the charge-sheets were also discussed with him and some not. For Sri Ram Nath he just evaded answer by stating that he did not remember the fact. All the three charge-sheets against Rajdeo Nonla, Harinath Singh and Ram Nath are dated 15th January, 1969 and are almost identical with slight difference. It is manifest that charge-sheets had been discussed with the Enquiry Officer before they were issued. He further admitted that allegations about the fact concerning the theft had come to his knowledge before charge-sheet was issued and the Manager had discussed the subject with him. When facts had come to his knowledge it was but fair that he should not have

conducted the enquiry. He imperceptibly must have had the bias from the very beginning when the facts had come to his knowledge and the subject had been discussed with him by the Manager. That he carried his bias during the course of enquiry is manifest by the fact that when he commenced the enquiry, the names of the management witnesses were not disclosed to Sri Ram Nath. There is a positive statement of Sri Kedar Singh representative of Sri Ram Nath that he applied to the Enquiry Officer to furnish him with a list of management witnesses and he demanded the same repeatedly but this was not done. Sri B. K. Srivastava did not categorically deny this part of the fact and stated that he did not remember if the co-worker of Sri Ram Nath applied for a copy of the names of management witnesses to be furnished before the enquiry. The record of enquiry proceedings would show that no names of witnesses had been disclosed before or even during the commencement of the enquiry on 20th January, 1969 and without furnishing the names the enquiry was adjourned to an indefinite date. During the evidence of Angad Singh the conduct of the Enquiry Officer does not appear to have been fair. The allegation of Sri Ram Nath was that he was formerly a member of INTUC Union headed by Sri Kanhaiya Singh which is patronised by the management. He had given up that union and had joined another union which has sponsored the dispute viz. Satna Cement Quarry Kamgar Union. The management had been pressing him to rejoin Kanhaiya Singh's Union and as he did not rejoin he was made a scapegoat and a false charge had been propped up. When the enquiry was going on Kanhaiya Singh was sitting outside and when settlement of Angad Singh broke down the Enquiry Officer directed him to go outside and wash his face. The Enquiry Officer denied this but he admitted that Angad Singh had gone out to make water. In cross-examination of Angad Singh before the Enquiry Officer it had been revealed that Angad Singh did have a talk with Kanhaiya Singh who was sitting outside. Angad Singh has further admitted that he belongs to the village of Kanhaiya Singh and was of the same caste. It is therefore not difficult to conceive that Angad Singh was a propped up witness at the instance of Kanhaiya Singh. Further in furnishing the names of witnesses of the management, the Enquiry Officer was not fair in his dealing with the workman. It is also significant to find that the report of Angad Singh was not produced in the enquiry nor did he state anything about it in his examination-in-chief or in his cross-examination. Had it been in existence the same would have been produced during the enquiry and Angad Singh would have had corroborated about it.

After Angad Singh, the next witness examined on 20th January, 1969 was Rampal Singh who gave statement about the recovery of the sleeper and its being kept in his custody. The recovery memo however was not produced before him and even though an application was made on 1st February, 1969. The Enquiry Officer merely recorded an order that the Asstt. Security Officer, Sri Ranjit Singh would be called for evidence and then recovery memo will be given. This was hardly fair for Sri Ram Nath and naturally he could not have successfully cross-examined Rampal Singh when he was examined on 20th January, 1969 or Bansidhar Singh and Jagan who had been examined earlier on 31st January, 1969. These are sufficient indications to show that the enquiry had not been conducted in a fair manner and in spite of the show of impartiality the irresistible conclusion is that Sri Srivastava was biased from the very beginning. As held by the Hon'ble Supreme Court in *Associated Cement Company Vs. Their workmen* [1963] (2) LLJ 396] domestic enquiry should not be empty formalities. It had further been observed that one who had seen the occurrence should not be the enquiry officer. On the same principle a person to whom facts about the alleged charge have come to knowledge should not allocate to himself the function of an enquiry officer. In every case, however, an enquiry must be bonafide and as would be found by subsequent discussions on other issues it appears that charge against Sri Ram Nath had been a faked one and enquiry merely a show and a formality so as to get rid of his services. As such enquiry stands vitiated.

Issue No. 3.—The finding of the Enquiry Officer cannot be called perverse inasmuch as he had some evidence even though false to record a finding of guilt against Sri Ram Nath. The fact, however, is immaterial when the enquiry itself was not bonafide and the entire evidence to support the findings had been a fabricated one.

Issue No. 4.—The certified Standing Orders under Clause 12 states that the employee may be suspended pending decision on any charge-sheet which has been issued. Sri Ram Nath was suspended presumably under this provision on 17th January, 1969 and was kept suspended throughout till his services were terminated. This provision of the Standing Orders, however, is subject to clause 12(1)(c) which

prescribes a limit that suspension pending enquiry shall not exceed 10 days. This part of the provision obviously had been ignored by the management and is indicative of lack of bonafides. Except for this, there is nothing in the Standing Orders so as to show that the enquiry was not conducted in accordance with the Standing Orders.

Issue No. 7.—When ones the enquiry has been found to be vitiated it was open to the management to have proved the misconduct by adducing satisfactory evidence before this Tribunal. In so doing the whole matter would be at large before the Tribunal and the management cannot rely on the prima facie aspect of the case for termination of service. There are intrinsic grounds to show that there was no satisfactory ground to charge-sheet the workman, Sri Ram Nath, for stealing a sleeper of the Company. Had there really been a theft and witnesses had seen the same there would have been an instant report in the police. When Sri S. V. Pai, Mines Manager, came in evidence as E.W. 2 he was asked about the fact if a report was lodged in police. The management was required to file a copy of the report in police which they did as Ex. E/21. It is dated 3rd February, 1969 long after the alleged theft on 9th January, 1969 and recovery of one sleeper from the house of Sri Ram Nath on 10th January, 1969. The domestic enquiry had already commenced on 20th January, 1969 and witnesses about facts had also been examined, Angad on 20th January, 1969 and Bansidhar Singh and Jagan on 31st January, 1969. Even the Asstt. Security Officer had been examined on 1st February, 1969. It is surprising to find that when all this evidence was available with the management the report in the police by Sri Ranjit Singh, Asstt. Security Officer (Ex. E/21) simply stated that he received a report on 10th January, 1969 about shortage of four sleepers from Stores and one of which was found from the house of Sri Ram Nath on 10th January, 1969. The remaining three sleepers were untracable. There is absolutely no mention that four others along with Sri Ram Nath had been seen taking away the sleepers. This very fact is enough to condemn the entire evidence of the management as a fabricated one, and in fact it is so. Three witnesses about the theft have been produced and they are Angad Singh (E.W. 5), Bansidhar Singh (E.W. 6) and Murlidhar Singh (E.W. 7). All the three have stated that they found S/Sri Ram Nath, Harinath Singh, Rajdeo Gupta, Rajdeo Nonia and Sambhu Gond taking sleepers at about 10 P.M. on 9th January, 1969. When questioned by witnesses Sri Ram Nath stated that he was taking them as stolen sleeper of the Company so as to get a cot prepared and further asked witnesses not to divulge this to anybody. It is difficult to swallow such a testimony which is against the normal course of human conduct. No one even if he was bringing a stolen property would admit to a casual passerby that he was bringing a stolen property and would further confide in him that the secret be not divulged. All this indicates that they had been propped up by witnesses and were procured at the instance of Sri Kanahiya Singh. At least two of them Angad Singh and Bansidhar Singh admitted that they both belong to the village of Sri Kanahiya Singh and are of the same caste. Further the fact that Kanahiya Singh was present outside on 20th January, 1969 during enquiry and he prompted Angad Singh in his statement shows that he was stooge of Sri Kanahiya Singh. No reliance can therefore be placed on the evidence produced by the management in support of the alleged theft. The recovery of the sleeper, however, is an admitted fact and when once the management's evidence is rejected as wholly untrustworthy there is no reason to discard the explanation of Sri Ram Nath that he got the sleeper in exchange from Moti (W.W. 2) whom he had produced in the domestic enquiry. Moti had given an explanation how the writing (Ex. E/5) had been obtained on 12th January, 1969. How far that explanation is satisfactory is not a point for consideration nor the doubts in the evidence of Sri Ram Nath will make the evidence of the management acceptable and trustworthy. Had the sleeper been really a stolen one Ram Nath would not have kept it in open compound and without any effort for concealment. It is further a significant fact that no criminal action was commenced against Sri Ram Nath. Apart from this, the explanation of the management that the other four Harinath Singh, Rajdeo Gupta, Rajdeo Nonia and Sambhu Gond were not proceeded with because sleepers were not recovered from their houses is hardly a sufficient and convincing reason. If the management was in possession of direct evidence as it pretended to have had and which was produced before the Enquiry Officer and also before this Tribunal the same evidence was against the other four and for which there was sufficient justification to take punitive action against them. It is also beyond comprehension why out of four only two others Rajdeo Nonia and Harinath Singh were charge-sheeted and further proceeding against them was dropped. The irresistible conclusion is that as they agreed to change over and join Sri Kanahiya Singh's Union that proceedings were dropped against them, It

must therefore be held that it has not been proved that Sri Ram Nath was guilty of the offence for which he had been charge-sheeted.

Issue No. 5.—From what has been stated and discussed above there are clear indications that the management had been guilty of unfair labour practice so as to victimise Sri Ram Nath. His statement that he left Kanahiya Singh's Union some 8 or 10 months before the charge-sheet because that Union used to side with the management and that his resisting all pressure to patch up with Kanahiya Singh even though he got him recruited, becomes acceptable from the circumstances of the case. The statement of Sri Ram Nath stands corroborated by the evidence of Kedar Singh (W.W. 2) who stated that Sri Ram Nath and 10 or 12 other persons leaving the union of Kanahiya Singh joined this Union, namely, Satna Cement Quarry Kamgar Union, an action which was not favoured by the management. When the charge against Sri Ram Nath is found to be false and the evidence fabricated these are sufficient grounds for holding that the action of the management to terminate his services was motivated to victimise him and was an unfair labour practice.

Issue No. 6.—If Sri Ram Nath had really been guilty of theft the punishment could not be deemed as excessive or unconscionable. The question, however, does not arise as he was not guilty of the misconduct for which he had been charge-sheeted. -spw

Decision.—The result is that the issue under reference is answered in negative. It is held that the dismissal of Sri Ram Nath was unjustified. He is entitled to be reinstated with back wages with continuity of service and attendant benefits. The Union shall further be entitled to Rs. 100/- as costs.

(Sd.) G. C. AGARWALA, Presiding Officer.

26-2-1970.

[No. 36(10)/69-LR.IV]

ORDERS

New Delhi, the 17th March 1970

S.O. 1151.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the management of Bright Kusunda Colliery, Post Office Dhansar, District Dhanbad, and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Central Government Industrial Tribunal (No. 3) Dhanbad, constituted under section 7A of the said Act.

SCHEDULE

“Whether the action of the management of Bright Kusunda Colliery, Post Office Dhansar, District Dhanbad in terminating the services of Shri Kameshwar Prasad, Attendance Clerk, with effect from the 1st November, 1969 was justified? If not, to what relief is the workman concerned entitled?”

[No. 2/13/70-LR. II.]

S.O. 1152.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the management of 6 and 7 Pits, Jamadoba Colliery of Messrs Tata Iron and Steel Company Limited, Post Office Jealgora, District Dhanbad and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central

Government hereby refers the said dispute for adjudication to the Central Government Industrial Tribunal (No. 3) Dhanbad, constituted under section 7A of the said Act.

SCHEDULE

"Whether the management of 6 and 7 Pits, Jamadoba Colliery of Messrs Tata Iron and Steel Company Limited, Post Office Jealgora, District Dhanbad was justified in dismissing from service Shri Sudhir Baidya, Shot-firer, with effect from the 21st December, 1968? If not, to what relief is the workman entitled?"

[No. 2/155/69-LR.II.]

New Delhi. the 18th March 1970

S.O. 1153.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the management of Khas Govindpur Colliery, Post Office Katrasgarh, District Dhanbad, and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas, the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Central Government Industrial Tribunal (No. 3), Dhanbad, constituted under section 7A of the said Act.

SCHEDULE

"Whether the action of the management of Khas Govindpur Colliery, Post Office Katrasgarh, District Dhanbad, in stopping from work the following workmen with effect from the 26th September, 1969, is justified? If not, to what relief are these workmen entitled?"

Sl. No.	Name and Designation.
1.	Sivnarayan Mahato, Prop Mazdoor.
2.	Sahadeo Mondal, General Mazdoor.
3.	Ram Dash Turi, Trammer.
4.	Gokhul Mondal, General Mazdoor.
5.	Atoo Bawri, Trammer.
6.	Teju Mahato, Trammer.
7.	Chandu Bhuiya, Trammer.

[No. 1/11/70-LR.II.]

S.O. 1154.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the management of East Indian Coal Company Limited, Post Office Jealgora, District Dhanbad and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas, the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Central Government Industrial Tribunal, (No. 3) Dhanbad, constituted under section 7A of the said Act.

SCHEDULE

"Whether the management of East Indian Coal Company Limited, Post Office Jealgora, District Dhanbad, is justified in placing Shri R. S. Chidambaram Telephone Operator of Chief Mining Engineer's Office, Jealgora, in Grade II of the Clerical Grade as per Wage Board recommendations with effect from the 15th August, 1967? If not, to what relief is the workman entitled?"

[No. 2/7/70-LR.II.]

S.O. 1155.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to Messers B. Patnaik Mines (Private) Limited, Barbil, and their workman in respect of the matters specified in the Schedule hereto annexed;

And, whereas the Central Government consider it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by section 7A and clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby constitutes an Industrial Tribunal with Shri U. N. Mishra, Presiding Officer, Additional Industrial Tribunal, with headquarters at Bhubaneswar and refers the said dispute for adjudication to the Industrial Tribunal.

SCHEDULE

“Whether the termination of Shri Rajendra Prasad Tiwari, Hospital Assistant in Seremda Hospital, with effect from the 28th November, 1969 by the management of Messers B. Patnaik Mines (Private) Limited is justified? If not, to what relief is the workman entitled?”

[No. 10/3/70-LR-IV.]

New Delhi, the 20th March 1970

S.O. 1156.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the management of Chora Nos. 7 and 9 Pits Colliery, Post Office Bahula, District Burdwan and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Central Government Industrial Tribunal, Calcutta, constituted under section 7A of the said Act.

SCHEDULE

“Whether the management of Chora Nos. 7 and 9 Pits Colliery Post Office Bahula, District Burdwan was justified in not paying Dearness Allowance, Sick Leave, Train fare, Overtime wages, Lead and Lift and annual increment to the workers as per Wage Board recommendations in Coal Industry as accepted by the Government with effect from the 15th August, 1967 and if not, to what relief are they entitled?”

[No. 6(3)/70-LR II.]

S.O. 1157.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the management of West Katras Colliery, Post Office Katrasgarh, District Dhanbad, and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Central Government Industrial Tribunal, No. 3 Dhanbad, constituted under section 7A of the said Act.

SCHEDULE

“Whether the management of West Katras Colliery, Post Office Katrasgarh, District Dhanbad, was justified in refusing re-employment to the undermentioned 14 trammers with effect from the 24th January, 1968? If not, to what relief are the workmen entitled to?”

Sl. No.	Name
1.	Charu Hazam.
2.	Khiroo Hazam.
3.	Badri Hazam.
4.	Bandhan Hazam.
5.	Nago Hazam.
6.	Lakhen Mahato.
7.	Sakur Mia.
8.	Liloo Hazam.
9.	Tiku Hazam.
10.	Bharat Hazam.
11.	Hiroo Hazam.
12.	Budhan Hazam.
13.	Ram Modak.
14.	Chaman Hazam.

[No. 1(10)/70-LR-II.]

CORRIGENDUM

New Delhi, the 18th March 1970

S.O. 1158.—In the notification of the Government of India in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) S.O. No. 794, dated the 20th February, 1970 published on pages 1168 and 1169 of the Gazette of India Part II, Section 3, Sub-section (ii), dated the 28th February, 1970.

In line 1 of the Schedule,—

for "Joyramdanga Colliery"

read "South Joyramdanga Colliery" (page 1168).

[No. F. 1/1/70-LR.II.]

P. C. MISRA, Under Secy.

(Department of Labour and Employment)

New Delhi, the 16th March 1970

S.O. 1159.—In exercise of the powers conferred by sub-section 1) of section 5 of the Iron Ore Mines Labour Welfare Cess Act, 1961 (58 of 1961) read with rule 31 of the Iron Ore Mines Labour Welfare Cess Rules, 1963, the Central Government hereby specifies the Welfare Commissioner, Mica Mines Labour Welfare Fund, Rajasthan, Bhilwara to be the Iron Ore Mines Cess Commissioner for the State of Rajasthan who shall be responsible for the assessment and collection of the cess levied under the said Act with effect from the afternoon of 31st January, 1970, and makes the following amendment in the notification of the Government of India in the late Ministry of Labour and Employment No. S.O. 2790, dated the 19th September, 1963, namely:—

In the Schedule to the said notification, against item 7, in column (1), for the entry "Director of Mines and Geology, Udaipur," the entry "Welfare Commissioner, Mica Mines Labour Welfare Fund, Rajasthan, Bhilwara," shall be substituted.

[No. 28 (3)69-MIII.]

C. R. NAIR, Under Secy.

श्रम और रोजगार विभाग

नई दिल्ली, 16 मार्च, 1970

का. ०११० 1159.—लोह अयस्क खान श्रम कल्याण उपकर नियम, 1963 के नियम 31 के साथ पठित लोह अयस्क खान श्रम कल्याण उपकर अधिनियम, 1961 (1961 का 58) की धारा

5 को उपवारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा कल्याण आयुक्त, अन्नक खान श्रम कल्याण निधि, राजस्थान, भिलवाड़ा, को राजस्थान राज्य के लिए लौह अन्नक खान उपकर आयुक्त विनिर्दिष्ट करती है, जो उक्त अधिनियम के अधीन उद्गृहीत उपकर के निर्धारण और संग्रहण के लिए 31 जनवरी, 1970 के अपराह्न से उत्तरदायी होगा, और भारत सरकार के भू-पूर्व श्रम और रोजगार मंत्रालय की अधिसूचना सं० का० आ० 2790, तारीख 19 सितम्बर, 1963 में निम्नलिखित संशोधन करती है, अर्थात् :—

उक्त अधिसूचना की अनुसूची में, सप्थ (1) में मद 7 के सामने “खान और भूविज्ञान निदेशक, उदयपुर” प्रविष्टि के स्थान पर “कल्याण आयुक्त, अन्नक खान श्रम कल्याण निधि, राजस्थान, भिलवाड़ा” प्रविष्टि प्रतिस्थापित की जाएगी।

[सं० 28(3) 69-एम-iii]

सी० आर० नायर, अध्वर सचिव।

(Department of Labour and Employment)

New Delhi, the 16th March 1970

S.O. 1160.—Whereas the Central Government has, in pursuance of clause (b) of sub-section (1) of section 10 of the Employees' State Insurance Act, 1948 (34 of 1948), nominated Dr. J.C. Sachdev, Deputy Director General of Health Services (Medical), Government of India, to be a member of the Medical Benefit Council in place of Dr. A. S. Sen;

Now, therefore, in pursuance of sub-section (1) of section 10 of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby makes the following further amendment in the notification of the Government of India, in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) No. S.O. 2899, dated the 27th September, 1966, namely:—

In the said notification, under the heading “Members”, for the entry against item (2), the following entry shall be substituted, namely:—

“Dr. J.C. Sachdev, Deputy Director General of Health Services (Medical), Government of India.”

[No. F. 3/3/69-HI.]

New Delhi, the 20th March 1970

S.O. 1161.—In exercise of the powers conferred by section 73F of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government having regard to the location of the factory, namely, Utran Power House, Surat belonging to Gujarat Electricity Board in an area in which the provisions of Chapters IV and V of the said Act are in force, hereby exempts the said factory from the payment of the employer's special contribution leviable under Chapter VA of the said Act for a period of one year with effect from the 25th February, 1970 upto and inclusive of the 24th February, 1971.

[No. F. 602(6)/70-HI.]

S.O. 1162.—In exercise of the powers conferred by section 73A of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government having regard to the location of the factory namely, Bhupendra Cement Works, Surajpur, in an area in which the provisions of Chapters IV and V of the said Act are, in force, hereby exempts the said factory from the payment of the employer's special contribution leviable under Chapter VA of the said Act for a period of one year with effect from the 21st February, 1970 upto and inclusive of the 20th February, 1971.

[No. F. 602(5)/70-HI.]

S.O. 1163.—In exercise of the powers conferred by section 73F of the Employees' State Insurance Act, 1948 (34 of 1948) and in continuation of the notification of the Government of India in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) No. S.O. 1364 dated the 3rd April,

1969, the Central Government having regard to the location of the factories, namely (1) Auto Workshop and (2) Mechanical Workshop, Oil and Natural Gas Commission, Nowgam Project, Kansari Road Via, Anand District Kaira (Gujarat) in an area in which the provisions of Chapters IV and V of the said Act are in force, hereby exempts the said factories from the payment of the employers's special contribution leviable under Chapter VA of the said Act for a further period with effect from the 16th April, 1969 upto and inclusive of the 2nd June, 1970.

[No. F. 601(3)70-HI]

S.O. 1164.—In exercise of the powers conferred by section 73F of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government having regard to the location of the factory namely, Atladara Sewage Purification Treatment Plant, Baroda Municipal Corporation, Baroda, in an area in which the provisions of Chapters IV and V of the said Act are in force, hereby exempts the said factory from the payment of the employer's special contribution leviable under Chapter VA of the said Act for a period of one year with effect from the 15th February, 1970 upto and inclusive of the 14th February, 1971.

[No. F. 602(1)70-HI.]

DALJIT SINGH, Under Secy.

(Department of Labour and Employment)

New Delhi, the 20th March 1970

S.O. 1165.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Bombay, in the industrial dispute between the employers in relation to the Marmagao Dock Labour Board, Marmagao and their workman, which was received by the Central Government on the 13th March, 1970.

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,
BOMBAY**

REFERENCE No. CGIT-16 CF 1967

PARTIES:

Employers in relation to the Marmagao Dock Labour Board, Marmagao.

AND

Their Workmen

PRESENT:

Shri A. T. Zambre,
Presiding Officer

APPEARANCES:

For the employers—Shri N. V. Phadke, Advocate instructed by Shri T. T. Tayade, Dy. Chairman, Marmagao Dock Labour Board.

For the workmen—Shri P. P. Khambatta and Shri K. P. Khambatta and Shri H. K. Sowani, Advocates instructed by Shri Mohan Nair, General Secretary, Goa Dock Labour Union.

STATE: Union Territory of Goa

INDUSTRY: Ports and Docks.

Bombay, dated 28th February 1970

AWARD

The Government of India, Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) by their Order No. 28(41)87/LR/III dated 23rd June, 1967 have referred to this Tribunal for adjudication an industrial dispute existing between the employers in relation to the Marmagao Dock Labour Board, Marmagao and their workmen in respect of the matters specified in the following schedule:—

SCHEDULE

"Whether the employers in relation to the Marmagao Dock Labour Board were justified in revising the wage structure of their workmen with effect from the 1st June, 1966 without giving notice under section 9A of the Industrial Disputes Act, 1947? If not, to what relief are the workmen entitled?"

2. The workmen who are concerned in this reference are the persons employed by the Marmagao Dock Labour Board in their administrative office, labour pool office and Marmagao Dock Labour Board dispensary and the circumstances in which this reference has been made may be stated in brief as follows:—

3. Upto the year 1963 the labourers connected with the loading and unloading operations at the Marmagao Port were engaged by the stevedores through contractors popularly known as "Mukadams" compared to the Toddywallas in the Bombay Port. These labourers raised a hue and cry in 1963 against their indirect employment and for their direct employment under the stevedores. Hence the Marmagao Stevedores' Association had been established. The Association considered the merits of the demands of the labourers and from 23rd May, 1963 formed a labour pool for registering gang labour. The present employees who had joined then the Transport and Dock Workers' Union were at that time working as the members of the administrative staff in the pool office of the Association.

4. The Central Government had declared Marmagao as a major port and decided to make a scheme for the Port declaring the scheme by a notification dated 10th April 1965 under section 3 and sub-section (1) of section 4 of the Dock Workers (Regulation of Employment) Act, 1948 and by a further notification dated 15th April 1965 established a Dock Labour Board appointing four members representing the Central Government, four members representing the dock workers and four members of the employers of dock workers and shipping companies. For the purpose of carrying on the day to day administration of the scheme Government instead of appointing the Marmagao Stevedores' Association as the Administrative Body of the scheme appointed the Executive Officer of the Board and subsequently the Deputy Chairman of the Board as the Administrative Body for the day to day administration. The Board held its first meeting on 20th April 1965 and instead of employing fresh workmen to manage the affairs of the scheme decided to take over the staff of the labour pool temporarily on their existing emoluments and thus the present workmen who were working in the pool office managed by the Stevedores' Association came under the employ of the Marmagao Dock Labour Board.

5. After the establishment of the Board the present employees joined the Goa Dock Labour Union which has by its statement of claim contended that when the workmen were in the employ of the Stevedores Association working in the pool office. They had raised demands about rise in wages and the Marmagao Stevedores' Association had granted *ad hoc* increases to the staff with effect from 1st October, 1964. But as the increase in the cost of living continued the employees had through this union submitted a fresh charter of demands on 13th April, 1965; the Stevedores Association had considered the demands and had signed a settlement on 20th April, 1965 conceding the most important part of the many demands—pay scales. But subsequently the Marmagao Dock Labour Board took over the affairs of running the pool from the Stevedores' Association. The Board took over the affairs of the labour pool including the staff then working in the pool office and it was normally presumed that the employees were taken over with all their conditions of service as prescribed to them by their previous employers. It is alleged that the Board in July 1965 thought of a plan of splitting up their salary scale into various items such as basic pay, D.A. Special Goa Compensatory Allowance, House Rent Allowance etc. The Board revised its scales and arbitrarily implemented the newly invented scales to come into effect from 1st June, 1965 and this revision was unjustified and bad in law. It is contended that the wage structure as signed by the Marmagao Stevedores Association was binding on the Marmagao Dock Labour Board which took over the staff. In case the revision of the salary, wage scale etc., was found necessary it was obligatory on the part of the Board to follow the procedure prescribed in the Industrial Disputes Act. The reduction in the basic pay and reduction in the quantum of yearly increment has put the workers to a loss and the newly introduced pay scales should be set aside and to restore the structure of basic pay scales as sanctioned by the Marmagao Stevedores Association.

6. The employers have by their written statement opposed the demand of the union and have contended that the Marmagao Dock Labour Board was established as a new independent statutory body under the provisions of the Dock Workers (Regulation of Employment) Act, 1948 and the establishment and the constitution of the Marmagao Dock Labour Board was thus independent of any arrangements whatsoever existing prior to its establishment including the mode and manner in which the Marmagao Stevedores Association thought fit to manage this aspect of its affairs, and the Board was free to start its activities under the provisions of the Act and the Scheme made thereunder by employing fresh workmen to manage their affairs as distinct from the labour constituted of the gang workers

and winchmen and it was not obligatory for the Board to employ that staff. But as a practical proposition however and in order to serve the wider interest the Marmagao Dock Labour Board under their Resolution No. 1 passed in the meeting held on the 20th April 1965 decided to take over such staff temporarily on their existing emoluments and the present dispute has been based on the misconception that the Marmagao Dock Labour Board was bound by the terms and conditions of employment of the workmen and nothing has been done by the Marmagao Dock Labour Board which could be termed as non-compliance of the requirements of section 9A of the Industrial Disputes Act.

7. Without prejudice to the above technical contentions the reference was further opposed on the contentions questioning the *bona fides* of the alleged settlement dated 20th April 1965 on various grounds.

8. In view of the later development in these proceedings I do not think it necessary to state all the grounds in defence in detail but briefly stated it was contended that the settlement was done *mala fide* with the intention of planting financial liabilities on the Marmagao Dock Labour Board in collusion by the Goa Dock Labour Union and the Marmagao Stevedores Association who were motivated by a desire to serve their selfish interest by securing the goodwill of the staff who were their subordinates. It was further contended that the so-called settlement was not in accordance with the provisions of section 18(1) of the Industrial Disputes Act; it was neither in the proper form nor duly witnessed nor were copies of the settlement filed with the Conciliation Officer (Central) Vasco da Gama nor forwarded to the Regional Labour Commissioner (Central), Chief Labour Commissioner (Central) and the Secretary to the Government of India. It was alleged that the Dock Labour Board was not a party to the so-called settlement and it was not binding on the Board. There was no necessity of serving any notice under section 9A of the Industrial Disputes Act and it was further contended that these pleas were made without prejudice to the right to represent the case if necessary at a later date.

9. Both the parties produced a number of documents and examined witnesses. The recording of evidence commenced on 27th February, 1968 and some of the witnesses were also examined but as both the parties requested for time to settle the dispute amicably the hearing was adjourned and the proceedings remained pending for settlement. Several times it was fixed for hearing but it had to be adjourned at the request of the parties. Ultimately it was fixed for hearing on 17th January, 1970. But before that date the employers have by their application dated 6th June, 1970 requested for permission to file a supplementary written statement raising a question of law about jurisdiction based on the Supreme Court's decision in Civil Appeal No. 2113 of 1966. By the written statement it was contended that in the judgment in Civil Appeal No. 2113 of 1966 (*Vizagapatnam Dock Labour Board v. Stevedores Association, Visakhapatnam and others*) dated 10th September, 1969 their Lordships had held that the Dock Labour Board functioning under the Dock Workers (Regulation of Employment) Act, 1948 and the scheme framed thereunder is not running an industry as defined under the Industrial Disputes Act, 1947. The Marmagao Dock Labour Board was identical in all respects with the Visakhapatnam Dock Labour Board and as the Marmagao Dock Labour Board is not carrying on an industry the reference does not attract the provisions of the Industrial Disputes Act, 1947 and as there was no industrial dispute the reference was incompetent, invalid *ab initio* and this Tribunal had no jurisdiction.

10. The employees had opposed the application contending that the Board was not entitled to file supplementary written statement after the commencement of recording of evidence and the application should be rejected. Regarding the merits of the new plea raised it was pointed out that the ruling of the Supreme Court in the case of the Visakhapatnam Dock Labour Board *v.* Visakhapatnam Stevedores Association and others was not applicable to the present reference. The workmen concerned in the present reference were employed in the administrative office labour pool and the Marmagao Dock Labour Board Dispensary and the scheme framed did not apply to them and the present reference was not covered by the Supreme Court's decision.

11. The new plea raised is purely a point of law. It was based on the new ruling of the Supreme Court. It was going to the root of the whole matter and the parties were heard on the issue whether there was an industrial dispute and this Tribunal had jurisdiction.

12. The learned Counsel on behalf of the employers has argued that the Marmagao Dock Labour Board is a statutory body and carries on functions under

the scheme. It is not running an industry and the employees are not workmen under the Act and there is no industrial dispute. The learned Counsel mainly relied on the decision of the Supreme Court in Civil Appeal No. 2113/66 Visakhapatnam Dock Labour Board v. Visakhapatnam Stevedores Association and others. He has produced an uncertified copy of the judgement. It was in appeal by special leave against the award of the Industrial Tribunal, Andhra Pradesh holding that the Dock Labour Board should pay the dock workers bonus for the accounting years 1964-65, 1965-66 and 1966-67. The Industrial Tribunal had held that it was the Board that was the employer of the dock workers and that the Board was liable to meet the claim for bonus. In appeal it was contended before the Hon'ble Supreme Court that having regard to the provisions of the Act and the scheme and functions discharged by the Board the Tribunal should have held that there was no employer-employee relationship between the Board and the workmen and the Board could not be made liable for the claim. Their Lordships of the Supreme Court discussed the historical background and the scheme of the Payment of Bonus Act and the previous rulings and held that the Board could not be considered to be the employer of the Dock Labour workmen and observed:—

"All these circumstances in our opinion *prima facie* establish that the Board cannot be considered to be the employer of the Dock Labour workmen. In fact the various provisions referred to in the scheme clearly show that the registered employer to whom the labour force is allotted by the Board is the employer whose work of loading or unloading of ships is done by the dock workers allotted to them."

While discussing the provisions and the previous rulings about the employer-employee relationship their Lordships considered the question also from another point of view—whether the Board was carrying on an industry so as to attract the provisions of the Industrial Disputes Act—and held that the Board functioning under the Act and the scheme could not be said to carry on any industry so as to attract the provisions of the Industrial Disputes Act. The employees rely upon the finding of this issue and it will be relevant to quote here the discussion and the observations of their Lordships in respect of same. Their Lordships have observed:—

"The matter can also be considered from another point of view, viz can it be stated that the Board is carrying on an industry, so as to attract the provisions of the Industrial Disputes Act? We have already referred to the various circumstances which will show that there is no employment as such of the dock worker by the Board. As observed by this court in *Gymkhana Club V Management* (4).

"What matters is not the nexus between the employee and the product of the employer's efforts; but the nature of the employer's occupation. If his work cannot be described as an industry his workmen are not industrial workmen and the disputes arising between them are not industrial disputes. The cardinal test is thus to find out whether there is an industry according to the denotation of the word in the first part. The second part will then show what will be included from the angle of employees".

Dealing with the definition 'industry' this court further observed: —

"The definition of 'industry' is in two parts, in its first part it means any business, trade, undertaking, manufacture or calling of employers. This part of the definition determines an industry by reference to occupation of employers in respect of certain activities. These activities are specified by five words and they determine what an industry is and what the cognate expression 'industrial' is intended to convey. This is denotation of the terms or what the word denotes. We shall presently discuss that the words 'business, trade, undertaking, manufacture or calling' comprehend. The second part views the matter from the angle of employees and is designed to include something more in what the term primarily denotes. By the second part of the definition any calling, service, employment, handicraft or industrial occupation or a vocation of workmen is included in the concept of industry. This part gives the extended connotation. If the activity can be described as an industry with reference to the occupation of the employers, the ambit of the industry, under the force of the second part, takes in the different kinds of activity of the employees mentioned in the second part. But the second part standing alone cannot define 'industry' an industry is not to be found in every case of employment of service."

Dealing with the expression 'industrial dispute' in the Industrial Disputes Act, this Court further proceeds to state, in the above decision at P. 757:

"....the words are 'industrial dispute' and not to trade dispute. Trade is only one aspect of industrial activity; business and manufacture are two others. The word also is not industry in the abstract which means diligence or assiduity in any task or effort but a branch of productive labour. This requires co-operation in some form between employers and workmen and the result is directly the product of this association but not necessarily commercial".

and wound up the discussion, at p 758 thus:

"Industry is the nexus between employers and employees and it is this nexus which brings two distinct bodies together to produce a result".

Applying the above principles to the case on hand, in our opinion it is clear that it cannot be stated that the Board, functioning under the Act and the Scheme, carries on any industry so as to attract the provisions of the Industrial Disputes Act.

13. From these observations it is clear that the Vishakhapatnam Dock Labour Board does not carry on any industry. The Marmagao Dock Labour Board performs the same functions as the Visakhapatnam Dock Labour Board. There is no difference and in view of the observations and conclusion it shall have to be held that the Marmagao Dock Labour Board does not carry on an industry and their employees cannot be workmen under the Industrial Disputes Act.

It is clear from the definition of workman under section 2(s) of the Industrial Disputes Act that only persons who are employed in an industry could be workmen under the Act. In view of this finding of Hon. Supreme Court the Marmagao Dock Labour Board is not running an industry and consequently their employees are not workmen and are not covered by the definition under section 2(s) of the Industrial Disputes Act. Under the circumstances there is no industrial dispute and this Tribunal will have no jurisdiction. In view of this finding it shall have to be held that the reference is not maintainable.

No order as to costs.

(Sd.) A. T. ZAMBRE,

Presiding Officer,

Central Government Industrial Tribunal,
Bombay.

[No. 28(41)/67-LR/III/P&D.]

S.O. 1166.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Bombay, in the industrial dispute between the employers in relation to Bombay Port Trust, Bombay and their workmen, which was received by the Central Government on the 12th March, 1970.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,
NO. 2, BOMBAY

REFERENCE NO. CGIT-2/20 OF 1968.

Employers in relation to Bombay Port Trust, Bombay.

AND

Their workmen.

PRESENT:

Shri N. K. Vani, Presiding Officer.

APPEARANCES:

For the Employers.—Shri R. K. Shetty, Deputy Legal Adviser, Bombay Port Trust, Bombay.

For the Workmen.—Shri S. K. Shetye, General Secretary, Bombay Port Trust Employees' Union, Bombay.

INDUSTRY: Ports and Docks.

STATE: Maharashtra.

Bombay, dated the 3rd March, 1970

AWARD

By order No. 28(114)/66-LRIV dated 1st September, 1966 the Government of India, in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment), in exercise of the powers conferred by sub-section (2) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), referred to the Central Government Industrial Tribunal, Bombay for adjudication an industrial dispute existing between the employers in relation to the Bombay Port Trust, Bombay and their workmen represented by the Bombay Port Trust Employees' Union, Bombay in respect of the matters set forth in the following Schedule:—

SCHEDULE

"Whether the claim of the Bombay Port Trust Employees' Union that the decision to grant daily allowance to the staff under the Mechanical Superintendent when required to stay overnight at Prongs and Kennery Light House in connection with Port Trust Work should be given retrospective effect from the date such allowance was allowed to the staff of the General Works Divisions of the Engineering Department is justified?"

2. Later on, the Central Government transferred this reference to this Tribunal No. 2, under order No. 22/8/68-LRIII dated 25th November, 1968.

3. On receipt of the reference notices were issued to the parties to file their written statement. Time was given to them for filing their written statement from time to time.

4. On 25th February, 1970 Shri R. K. Shetty, Deputy Legal Adviser, Bombay Port Trust and Shri S. K. Shetye, General Secretary, B. P. T. Employees' Union, Bombay appeared before me and informed me that the matter was amicably settled. They did not, therefore, file written statement but produced the settlement marked as Annexure 'A'.

5. By this settlement, the Bombay Port Trust agrees to pay daily allowance to the workmen concerned at the rate applicable under the Rules for a period of two years immediately preceding 1st April, 1965.

6. The employees' demand was that the decision to grant daily allowance to the staff under the Mechanical Superintendent, when required to stay overnight at Prongs and Kennery Light House in connection with Port Trust work should be given retrospective effect from the date of such allowance was allowed to the staff of the General Works Divisions of the Engineering Department.

7. There is no material before me to find out the date from which this allowance was allowed to the General Works Divisions of the Engineering Department. I cannot, therefore, observe from what date this allowance was allowed. In any case, the Bombay Port Trust Employees' Union, representing the concerned workmen is prepared to take the allowance in question with effect from 2 years immediately preceding 1st April, 1965.

8. On going through the terms of compromise and considering the demands of the employees I find that the settlement effected by the parties and produced in this case and marked as Annexure 'A' is quite fair and reasonable. It is in the interest of the employees. I, therefore, accept the same and pass the following order:—

ORDER

1. Award is made in terms of settlement marked as Annexure 'A'.
2. Settlement Annexure 'A' is to form part of the Award.
3. No order as to costs.

(Sd.) N. K. VANI,
Presiding Officer,

Central Government Industrial Tribunal No 2, Bombay.

ANNEXURE 'A'
BOMBAY PORT TRUST

[No. 68-IT(2/20)/14945.]

February 25, 1970.

From

The Legal Adviser, Bombay Port Trust, "Vijay-Deep" Ballard Rd., Fort, Bombay.

The Hon'ble Shri N. K. Vaidi, Central Government Industrial Tribunal No. II, 4th Floor, City Ice Building, 298, Bazargate St., Fort, Bombay-1.

SUB.—Reference No. C.G.I.T.-2/20 of 1968—Demand for Daily Allowance.

Dear Sir,

We are pleased to inform you that we have amicably settled the dispute covered by the abovementioned reference in the following terms:—

- (1) That the Bombay Port Trust will pay Daily Allowance to the workmen concerned at the rates applicable under the Rules for a period of two years immediately preceding 1st April, 1965.
- (2) That the B. P. T. Employees' Union representing the concerned workmen hereby accepts the offer of payment contained in Item No. (1) above in full and final settlement of the Demand covered by the abovementioned reference.
- (3) We pray that a Consent Award may be made in terms of the agreement contained at items (1) and (2) above.

Yours faithfully,

Sd./-

(Sd.) R. K. SHETTY,

Dy. Legal Adviser,
Bombay Port Trust, Bombay.

Sd./-

(Sd.) S. K. SHETTY,

General Secretary,

B. P. T. Employees' Union, Bombay.

[No. 28/114/66-LR-IV/P & D.]

C. RAMDAS, Dy. Secy

MINISTRY OF RAILWAYS

(Railway Board)

New Delhi, the 17th March 1970

S.O. 1167.—In exercise of the powers conferred by section 82-B of the Indian Railways Act, 1890 (9 of 1890), read with sub-rule (1) of rule 4 of the Railway Accidents (Compensation) Rules, 1950, the Central Government hereby makes the following further amendment in the Notification of the Government of India in the Ministry of Railways (Railway Board) No. 893-TGIV-58/3 dated the 28th January 1960, namely:—

In the Schedule to the said notification for the entries in column 2 against the entry "Union territory of Delhi" in column 1, the following shall be substituted, namely:—

- "1. Additional District Magistrate (Central) for the area comprised in New Delhi.
2. Additional District Magistrate (North) for the remaining areas in the Union territory of Delhi."

[No. 69-TGII/1026/77(X)]

C. S. PARMESWARAN,
Secy., Railway Board.

रेल मंत्रालय

(रेलवे बोर्ड)

नई दिल्ली, 17 मार्च, 1970

एस० नो० 1167.—रेल दुर्घटना (प्रतिकर) नियम 1950 के नियम 4 के उप-नियम (1) के साथ पठित भारतीय रेल अधिनियम, 1890 (1890 का 9) की धारा 82-ख द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा, भारत सरकार के रेल मंत्रालय (रेलवे बोर्ड) की 28 जनवरी, 1960 की अधिसूचना सं० 893 टी०जी०-4-58/3 में आगे और निम्नलिखित संशोधन करती है, अर्थात्:—

उक्त अधिसूचना की अनुसूची के कालम 1 के इन्दराज “दिल्ली के संघ क्षेत्र” के सामने काष्ठम 2 के इन्दराज की जगह निम्नलिखित को प्रतिस्थापित किया जाएगा, अर्थात्:—

- “1. नयी दिल्ली में शामिल क्षेत्र के लिए अतिरिक्त जिलाधीश (मध्य)
2. दिल्ली के संघ क्षेत्र के बाकी क्षेत्रों के लिए अतिरिक्त जिलाधीश (उत्तर)”

[सं० 69-टी०जी० 2/1026/77/(X)]

सी०एस० परमेश्वरन,

सचिव, रेलवे बोर्ड:

MINISTRY OF HOME AFFAIRS

New Delhi, the 17th March 1970

S.O. 1168.—In pursuance of clause (1) of Article 258 of the Constitution and in supersession of all previous notifications of the Government of India in the Ministry of Home Affairs on the subject, the President hereby entrusts, with the consent of the State Government of Gujarat, the functions of the Central Government under section 7 of the Explosive Substances Act, 1908 (6 of 1908) to that State Government.

[No. F. 26/2/70-GPA.II.]

C. B. BUDGUJAR, Under Secy.

New Delhi, the 18th March 1970

S.O. 1169.—In pursuance of clause (b) of rule 2 of the Citizenship Rules, 1956, and in supersession of the notifications of the Government of India in the Ministry of Home Affairs No. S.R.O. 2097, dated the 22nd June, 1957, and No. S.O. 1409, dated the 6th May, 1966, the Central Government hereby appoints the officer specified in column 1 of the Schedule hereto annexed to perform in the Union territory of Tripura the functions of the Collector under the said rules in respect of the area specified in the corresponding entry in column 2 thereof.

THE SCHEDULE

Designation of the Officer	Area
I	2
Additional District Magistrate (Headquarters)	Tripura District.

[No. 23/1/66-IC.]

C. L. GOYAL, Under Secy.

गृह मंत्रालय

नई दिल्ली, 18 मार्च, 1970

एस० नो० 1169.—नागरिकता नियम, 1956 के नियम 2 के खण्ड (ख) का अनुसरण करते हुए और भारत सरकार के गृह मंत्रालय की अधिसूचनाओं सं० का० नि० आ० 2097, तारीख 22 जून, 1957 और सं० का० आ० 1410, तारीख 6 मई, 1966, को अधिकांश करते हुए, केन्द्रीय सरकार इससे उपाबद्ध अनुसूची के स्तम्भ 1 में विनिर्दिष्ट अधिकारी को, उसके स्तम्भ 2 में तत्स्थानी प्रविष्टि में विनिर्दिष्ट क्षेत्र के बारे में, उक्त नियमों के अधीन त्रिपुरा संघ राज्य क्षेत्र में कलक्टर के कर्तव्यों का पालन करने के लिए एतद्वारा नियुक्त करती है।

अनुसूची

अधिकारी का पदनाम	क्षेत्र
1	2
अपर जिला मजिस्ट्रेट (मुख्यालय)	त्रिपुरा जिला

[सं० 23/1/66-आई० सी०]

सी० ए० गोयल, अवर सचिव।

